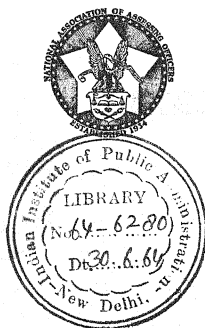


# ASSESSMENT ORGANIZATION AND PERSONNEL



NATIONAL ASSOCIATION OF  
ASSESSING OFFICERS

*Chicago*





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## Foreword

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**T**HE COMMITTEE on Assessment Organization and Personnel was appointed in July 1937 by John A. Zangerle, then president of the National Association of Assessing Officers, and since that date has been almost continuously engaged in the conduct of the work embodied in this volume.

The volume is divided into two parts. Part one is the official report of the committee. It appears as presented to the Association at the meeting of members held in Baltimore on September 11, 1940, except for minor revisions which do not in any way affect the recommendations of the committee.<sup>1</sup> The report was officially adopted by the Association after amendment in the manner indicated on pages 15 and 16. Part two contains the principal factual evidence and arguments upon which the committee's recommendations are based. Except for a number of changes in the manner of presentation, a few reclassifications of data, the revision of materials where necessitated by new legislation and other recent developments,<sup>2</sup> and general editing, this part is a compilation of the ten progress reports which the committee issued between June 1, 1938, and September 1, 1940.

<sup>1</sup> The privilege of amending statements of fact appearing in the report was specifically reserved by the chairman of the committee when the report was presented to the membership.

<sup>2</sup> Since the manuscript was completed before the adjournment of most of the 1941 legislative sessions, it has been impossible to indicate all changes effected during them. It is believed, however, that most of the important changes have been incorporated either in the text or in the footnotes.

The completion of the work of the Committee on Assessment Organization and Personnel marks the passing of another milestone on the road to efficient, equitable property tax administration. A proper distribution of powers and duties among assessing agencies and among the personnel within each such agency is of fundamental importance to successful assessment administration. So, too, is the staffing of these agencies with loyal, competent personnel. It is to these problems that the committee has addressed itself. In each instance, the committee began its work with a thorough examination of existing practice, and the reporting of the facts disclosed makes this a reference book for which there is no adequate substitute. But of even more importance than this factual material are the conclusions reached by the committee and the reasoning on which they are based. These should be of special interest to every assessor, state tax administrator, and legislator and, indeed, to every citizen who desires to preserve and strengthen local government.

The Committee on Assessment Organization and Personnel, under the chairmanship of James W. Martin, was in charge of the work embodied in this publication until September 1940, and its members have served as unofficial advisors since that date. The editorial and research work was performed by Ronald B. Welch, Research Director of the National Association of Assessing Officers, with the exception of the original draft of Chapter VI, which was prepared by Hiram M. Stout, Director of the School of Public Affairs at The American University. Most of the figures were prepared by Regena Moser.

A great deal of assistance was also rendered to the committee by the group of advisors mentioned in the Letter of Transmittal, by various present and former members of the executive board of the National Association of Assessing Officers, and by the following critics of certain segments of the manuscript: R. C. Hall, Louis Murphy, and other members of the staff of the Forest Taxation Inquiry, United States

Forest Service; George Mitchell and I. M. Labovitz, of the staff of the Illinois Tax Commission; David L. Robinson, Jr., Executive Director of Public Administration Service; Elton Woolpert, Assistant Director of the Institute for Training in Municipal Administration; James M. Mitchell, Director, and Robert Coop, staff member, of the Civil Service Assembly; Rolland D. Severy, now of the Office of Production Management; Leonard D. White, Professor of Public Administration at the University of Chicago; Israel Rafkind, now of the staff of the Social Security Board; Professor Robert C. Brown, Indiana University School of Law; Professor Maurice S. Culp, Lamar School of Law, Emory University; Professor Amos H. Eblen, College of Law, University of Kentucky; Professor Ralph F. Fuchs, Washington University School of Law; and Professor Henry Rottschaeffer of the University of Minnesota Law School. Space precludes the naming of hundreds of others who generously responded to requests for information and opinions. The National Association of Assessing Officers is deeply indebted to all of these for their contributions to this study.

June 1, 1941

ALBERT W. NOONAN

*Executive Director*



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## PART ONE

LETTER OF TRANSMITTAL

September 11, 1940

Honorable James J. Casey, President  
National Association of Assessing Officers  
Chicago, Illinois

Dear Sir:

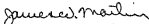
Your Committee on Assessment Organization and Personnel has the honor to submit herewith its official report.

We have previously prepared and transmitted to you and your predecessors a series of ten progress reports, which were designed to keep the membership informed as to the accomplishments of the committee over the many months through which its studies have stretched. The outline of the present report follows, in a general way, the pattern established by these earlier, unofficial reports. There has, however, been some rearrangement of material, which will be clear upon examination of the Table of Contents. The recommendations are also derived from the progress reports, with only a few editorial changes, necessitated in some cases by lack of uniformity in structural aspects of the progress reports.


Each section in this report is composed of a brief description of the subject matter and a list of recommendations. Naturally it is impossible to explain or defend the recommendations in a report of this length, and readers are respectfully referred to our progress reports for this background material.

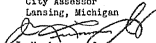
Although this final report has not been circulated beyond the committee members themselves, those whose assistance has been acknowledged in our several progress reports have made important contributions to it. Special mention at this point must be limited to those members of the executive board of the Association and of our advisors, Professors Clarence Heer, Jens P. Jensen, Roscoe C. Martin, Herbert D. Simpson, and Paul Studenski, who have given so freely of their time and energy. It is probably needless to add that the committee accepts full responsibility for all of its publications.

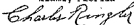
Respectfully submitted,

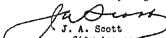
  
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## Report of the Committee

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### I. INTRODUCTION

**T**HE SUCCESSFUL administration of any governmental function requires the application of proper administrative techniques by capable personnel, operating within the framework of a sound organization. Two years ago, there was presented to this Association a committee report which dealt primarily with administrative techniques, the first of these requisites. This committee has undertaken to report in similar vein on the problems of organization and staffing.

The committee has from the beginning avoided the viewpoint that there is an ideal organizational pattern and an ideal set of personnel policies which should be adopted throughout the country. In our first progress report, noting the variety of assessment organizations in the United States, we made a comment which is equally appropriate to this final report:<sup>1</sup>

. . . one must guard against the superficial assumption that these variations are unnecessary or undesirable, that there is a single pattern which will fit equally well the needs of rural and urban communities; agricultural, industrial, and forest districts; states with highly centralized governments and states in which local governments are accustomed to a large measure of home rule—to mention only a few of the features which distinguish one state or locality from another. The assessment organization of every state and every locality should be adapted to its economic, social, and legal environment. Government does not

<sup>1</sup> *Primary Local Assessment Districts*, p. iv.



exist for the purpose of laying taxes, and it would be unreasonable to urge its wholesale reorganization solely for the purpose of achieving better assessment administration. The recommendations of the Committee must therefore be interpreted not as hard and fast rules, departure from which immediately and finally condemns an assessment organization, but rather as guides designed to fit the needs of typical states or localities. The failure of a particular organization pattern to conform with the standards proposed, in the opinion of the Committee, should be considered symptomatic of inadequacy, but each case requires individual diagnosis to facilitate adaptation of the proposed remedy.

On the other hand, there is always the danger of assuming that the existing way of doing things is the best way. Many public officials, including some assessors, have a noticeable tendency to defend the systems under which they have gained and successfully held public office. When these systems differ as widely as has been disclosed by our studies, it seems improbable that all of them are defensible. It has therefore been the purpose of the committee to acquaint itself with assessment organization patterns and personnel practices throughout the whole country, to study these things in the light of general principles of public administration and of plain common sense, and to distill out of the experiences of a great many persons the principles of organization and personnel which have wide, if not universal, application in local property tax assessment.

In all of its deliberations, the committee has adhered to the beliefs that the public interest takes precedence over the private interests of any single assessor or any group of assessors and that, in the long run, assessors will best serve themselves by best serving those to whom public administrators in a democracy are eventually responsible.

## II. PRIMARY LOCAL ASSESSMENT DISTRICTS

Property tax assessment administration in every part of the country operates within the framework of an organization prescribed in considerable detail by the state legislature. But the administration has not been vested in a state agency—

except in limited degree—even where a state property tax is levied. Instead, it has been largely decentralized in the counties or other political subdivisions of the state. Each of these political subdivisions typically selects its own assessor, pays the cost of the assessment function out of its own tax revenues, and, through its own legislative body and perhaps its chief executive, exercises considerable control over the whole assessment process. In this typical situation, the political subdivisions constitute assessment districts, although there are some states in which each such subdivision is broken up into still smaller administrative areas for assessment purposes.

Assessment districts on the local level are of two types. Primary districts are contiguous and together occupy the whole area of the state. Their assessors prepare the rolls on which the state and county levies (if any) are extended. Overlapping assessment districts, on the other hand, are non-contiguous governmental units which are authorized to establish assessing agencies and to list and appraise property for their own tax purposes despite the fact that the same property has been listed and appraised by a primary district. Although every state has primary assessment districts, less than half of them have overlapping districts.

There are approximately 26,300 primary assessment districts in the United States. Counties or their equivalent (including one consolidated county and city in each of three states and one or more cities which are not within the limits of any county or counties in Maryland and Virginia) are the only primary districts in 26 states. Townships or their equivalent (including towns and cities in New England and municipalities which are not within the limits of any township or townships in 7 other states) are the only primary districts in 15 states. In the remaining 7 states, the county pattern of assessment districts is found in some areas and the township-municipal pattern elsewhere. The number of districts in a single state varies from 3 in Delaware to 2587 in Minnesota.

The populations of primary assessment districts in the

United States vary from about a half dozen to nearly seven and a half millions, while their assessed valuations vary from \$25,000 to over \$16,500,000,000. Over 23,000 primary districts—92 per cent of the total number—have populations of less than 10,000. This tremendous number of small districts presents one of the major problems of assessment organization. Such districts have an assessment task which is inadequate for the development of specialized skills and the employment of a full-time minimum staff of one assessor and at least one assistant; they lack resources for the support of an assessment department; and they generally suffer from a relatively poor assessment performed at a relatively high cost per dollar of assessed valuation.

The committee makes the following recommendations:

1. The assessment district should ordinarily be coterminous with the political subdivision performing the assessment function. (Page 47.)<sup>1</sup>

2. The political subdivision performing this function should be one which engages in other important governmental activities and which finances itself in large measure out of property tax receipts. (Page 48.)

3. The political subdivision serving as an assessment district should have sufficient resources to afford adequate assessment machinery, and should provide an assessment task large enough to realize the economies of large-scale operations and to warrant the employment of one full-time assessor and at least one full-time assistant. (Page 51.)

4. The assessment district should not be so large that the flexibility required to adapt the assessment process to special cases is lost. (Page 55.)

5. Where existing assessment districts do not meet these standards, the state should be redistricted by one or more of the following means:

- a. Two or more small governmental units which perform

<sup>1</sup> The page number following each recommendation in this part refers to the point at which the recommendation is explained and supported in Part II.

assessment functions may cooperate to form a single assessment district. (Page 56.)

b. Two or more small governmental units which perform assessment functions may be consolidated to form a single governmental unit. (Page 57.)

c. The assessment function may be transferred to an existing governmental unit whose area includes that of two or more of the units now performing the function. (Page 57.)

d. The assessment function may be transferred from townships and small municipalities to their counties while large municipalities are separated from their counties. (Page 58.)

e. An exceptionally large assessment district may decentralize its operations by establishing branch offices in charge of deputies to whom a large measure of authority and responsibility has been delegated by the assessor. (Page 59.)

### III. OVERLAPPING LOCAL ASSESSMENT DISTRICTS

Overlapping local assessment districts are found in 22 states and number around 6300. Some of these are required to assess their own property taxes, while others are permitted but not required to do so. Probably between three and four thousand actually undertake the task. Generally speaking, the assessors of these districts have the authority to list and appraise all *tangible* property which is assessable by the agencies of primary districts.

There are several reasons for the existence of overlapping assessment districts, chief among which are: (1) the failure of assessors of primary districts to appraise property at its full value, and the consequent inability of overlapping districts to raise as much in taxes or incur as much indebtedness under existing laws as they can when doing their own assessing; (2) the failure of primary districts to do a good enough assessment job to satisfy the residents of overlapping districts; (3) the belief that the assessment of property taxes is a legitimate exercise of home-rule powers. Although one or another

of these reasons may justify the existence of many overlapping assessment districts, it is generally agreed that such districts are expensive, annoying to taxpayers, and frequently subversive of good assessment in the primary districts and of proper equalization of taxes on state-assessed and locally assessed properties.

Most commentators on overlapping assessment districts have urged their abolition. This may be accomplished in any one of three ways. One method, and perhaps the most generally acceptable, is to require the overlapping district to use the assessment rolls of its primary district or districts as the basis for its tax levies. Another is to make each overlapping district a primary district, but this is probably the least satisfactory solution unless it is accompanied by governmental reorganization in other fields so that existing primary districts cease to perform any function within the areas embraced by existing overlapping districts. Finally, when an overlapping district covers most of the area of a primary district, the governments of the two districts may be consolidated into a single unit.

The committee offers the following recommendations:

1. Overlapping assessment districts which are now required to do their own assessing should be permitted to use the assessment machinery of their primary districts. (Page 83.)
2. Tax rate and debt limitations in all states having overlapping assessment districts should be carefully studied by the legislature with the purpose of substituting different types of limitation or creating a proper balance between the limitations on primary and overlapping districts so that both can operate equally well with a single assessment. (Page 84.)
3. Primary assessment districts should be encouraged to assess at full value by the reduction of state levies, the distribution of state funds according to assessed valuations, the improvement of state equalization methods, or other appropriate measures. (Page 85.)

## IV. THE STATE AS AN ASSESSMENT DISTRICT

Not all types of property are assessable by the agencies of local assessment districts. Some are exempt from taxation. Others are assessable only by agencies of the state government.

The operating property of public utilities accounts for the great bulk of the assessments made by state agencies. A few states subject certain classes of utilities to state-assessed gross earnings taxes in lieu of general property taxes, but most of them provide for appraisal of all or the great bulk of the assets of these companies by a state agency, with certification of valuations back to local officials for inclusion in the general property tax rolls. In either event the local assessors are relieved of the exceedingly difficult task of valuing such assets.

Intangibles constitute the second large class of property frequently assigned to state assessing agencies. If we include Michigan, Ohio, and seven states which reach intangibles only by means of a tax upon their income yield at a rate higher than that of any tax imposed upon income from other sources, there are now 15 states with a well-established policy of state assessment of intangible property taxes. Since intangibles are exempt from property taxation in another eight or nine states, only half of the states continue to impose the duty of discovering and appraising them upon local officials.

With a few exceptions, tangible personal property outside the public utility field is locally assessed. Such property is entirely exempt from taxation only in Delaware, New York, and Pennsylvania. In Ohio it is assessed by the state tax department, with the county auditors assisting as deputy assessors in the listing and appraising of small holdings. The Maryland Tax Commission assesses all tangible personal property of corporations and all distilled spirits. The Kentucky Department of Revenue also assesses whiskey while in storage. The South Carolina Tax Commission assesses both the real and personal property of a small number of industrial plants.

There are some taxes in a good many states which are imposed in lieu of general property taxes and which may therefore reasonably be classified as special property taxes and brought within the scope of the committee's study. These include state-assessed net or gross proceeds taxes on mines in eight or nine states, state-assessed yield taxes on forests in an equal number of states, and state-assessed taxes on motor vehicles in at least two.

Some types of property should undoubtedly be assessed by a state agency, but other types are best left to local assessors. The particular manner in which the property tax base is divided between state and local assessing agencies should, in the committee's opinion, be decided in accordance with the following recommendations:

1. The division of jurisdiction between state and local assessment agencies should be clear both to taxpayers and to assessors. (Page 108.)

2. Other things being substantially equal, the agency assessing a property tax should be in the administrative branch of the government which depends most heavily upon the proceeds of the tax. (Page 109.)

3. All property of a type which customarily lies in more than one local assessment district and which is more equitably or easily assessed as a unit than as a series of geographically isolated parts should be assessed by a state agency. (Page 111.)

4. Property of a migratory character which is constantly moving in and out of a state should ordinarily be assessed by a state agency. (Page 112.)

5. Properties which are inventoried by state or federal regulatory agencies should ordinarily be assessed by the state. (Page 114.)

6. Properties which are found in relatively small number in all or several local assessment districts, which are of considerable value, and which can be effectively appraised only by highly trained persons should be assessed by the state. (Page 115.)

7. Highly standardized properties the value of which is little affected by location should be assessed by a state agency, provided its facilities for discovering such properties are not inferior to those of local assessors. (Page 115.)

8. Properties whose tax situs is commonly altered, or thought to be altered, with the purpose of minimizing the taxes levied on them should be assessed by a state agency, provided its facilities for discovering and valuing such properties are not inferior to those of local assessors. (Page 116.)

#### V. INTERNAL ORGANIZATION OF LOCAL ASSESSMENT OFFICES

Probably the most important steps in the organization of the original assessment process have been taken when taxable property has been divided into two categories, one of which is assigned to a central assessment agency, the other to a group of local agencies, and when the number and jurisdictional areas of these local agencies have been determined by establishing the boundaries of primary assessment districts. The next step is to organize internally the central agency and each of the local agencies in which more than one person operates.<sup>1</sup>

Internal organization is the plan by which the work of an operating unit is divided among two or more persons and the efforts of these persons are coordinated. This plan may be entirely informal with a small office force; but it needs to be increasingly formalized with larger groups, where personal contacts between the department head and his subordinates are less frequent and mutual understanding is less likely to be achieved spontaneously.

There are two broad patterns of work division: (1) geographical, in which each person does the same job but does it in different places, and (2) functional, in which each person does a different job. Whatever the pattern selected, it is put

<sup>1</sup> The committee has assumed here and elsewhere that it was not intended to make recommendations concerning the organization and personnel of state assessment agencies, as such. However, many principles of public administration are equally valid on state and local levels.



into effect by the assignment of duties and responsibilities to "positions." In all but the smallest assessment offices, there is then a grouping of positions into a series of operating units, each headed by its own supervisor. Every supervisor is supposed to secure coordination of effort within his unit, while the head of the assessment office is expected to secure coordination among major operating units.

Over 22,700 primary districts and some 3000 active overlapping districts have assessment agencies headed by (if not constituted of) single assessors. The remaining 3600 primary districts and some 500 overlapping districts have agencies headed by a board of assessors. The peculiar function of one of these department heads is to plan, control, and coordinate the work of the subordinate personnel and to represent the department in its relationships with the public and with other official agencies. In large offices, this function is often performed with the assistance of a chief deputy assessor and other staff officers.

The committee recognizes that departmental organizations should be custom-built and not ready-made. However, the following propositions seem to have general application and are advanced as recommendations:

1. The various activities required of the assessing department should be assigned in writing to appropriate positions in such manner as to facilitate the employment of persons with special skills and aptitudes, to develop in employees additional skills peculiar to assessment work, and to economize on the more expensive skills. (Page 133.)

2. Positions should be grouped into homogeneous operating units, each headed by a technically skilled supervisor. The type of work, area of operations, and number of subordinates in each unit should be such as to permit effective supervision by its director, and as many levels of supervision should be established as may be necessary to assure complete coordination of departmental activities. (Page 139.)

3. Lines of authority and responsibility should be clearly

defined so that each person knows for what subordinates he is responsible and what supervisor has authority over him, and no responsibility should be delegated to a supervisor without commensurate authority. (Page 143.)

4. Final authority and responsibility should ordinarily be vested in a single assessor rather than a board of assessors. Where there is a board, it should ordinarily have three members, one of whom should serve as the departmental administrator. (Page 144.)

5. The assessor should be aided by a staff of sufficient size to be freed of detail work and to be able to devote adequate time to the management functions, including, among other things, the planning of operations, the coordination of activities, and the maintenance of good public relations. (Page 151.)

## VI. SELECTION, TENURE, AND COMPENSATION OF ASSESSORS

The internal organization of a local assessment office is like a skeleton; but it takes more than bones to make a living organism and more than an organization to make a governmental agency. The organization must be properly staffed with an assessor and, in all assessment districts of respectable size, with one or more subordinates. The importance of this staffing process can hardly be exaggerated.

It has been widely assumed in the past that most anyone is good enough to fill the office of assessor. But the circumstances which gave rise to this assumption are fast disappearing, and the public is gradually beginning to realize that competent assessors have an unusual combination of talents. It must be apparent, however, that persons who have the desired qualifications cannot be attracted into the assessor's office unless they are offered good salaries and a relatively secure tenure. And, of course, with higher rewards of office, there is certain to be a larger number of potential candidates, and the machinery for choosing one of them to serve as the assessor becomes increasingly important.

As a rule, almost any member of the local electorate is legally eligible for the office of assessor. Thus United States citizenship, an age of at least 21 years, a certain period of residence in the locality and the state, and, less universally, the ability to read and write are the principal statutory qualifications. Whether someone meeting these requirements can obtain the position depends upon his appeal to the voters in about nine out of ten assessment districts and to the city council, mayor, manager, or some other appointing agency in the tenth district. There is a formal examination of candidates only in the 120 Kentucky counties, where they must be tested by the Commissioner of Revenue before standing for election, and in about a dozen cities whose civil service commissions have jurisdiction over the assessor as well as over his subordinates.

Approximately 49 per cent of the primary assessment districts of the United States select their assessors for two-year terms, 27.5 per cent for four-year terms, 18 per cent for one-year terms, and the remaining 5.5 per cent for terms of three, five, six, or an indefinite number of years. Although similar data have not been collected for overlapping districts, it is considered unlikely that they would greatly alter this distribution.

There are provisions for removal of assessors by the electorate, by the courts, or by some state or local officer or board in all states, but they are seldom resorted to except in jurisdictions where the assessor holds office "at the pleasure" of the appointing officer or agency. This infrequency of removal, coupled with frequent reelection or reappointment of incumbents, produces a low rate of turnover. A rough estimate fixes the average rate of turnover at 12 per cent, indicating that the typical assessor holds office for more than eight successive years.

A majority of township and village assessors receive per diems ranging from \$2 to \$10. Cities and counties, instead of per diems, usually pay annual salaries ranging from \$50 or \$60 in places where the work requires only two or three weeks a year up to ten or fifteen thousand dollars in our largest assess-

ment districts. In a few states, assessors are paid a commission on the number of dollars of assessed valuation, the number of parcels of real estate and lists of personalty assessed, or similar bases.

The state legislature usually fixes the exact compensation of county assessors and the maximum compensation of township assessors. Municipal assessment districts, on the other hand, are very often allowed to determine the compensation of their assessors by local ordinance. Salaries are ordinarily paid out of taxes levied by the assessment district itself, although payment of township assessors' salaries by county governments and of a portion of county assessors' salaries by state governments is not uncommon.

Retirement and disability benefits, which may be thought of as deferred compensation, are available to assessors in a half dozen states if the governing bodies of their assessment districts choose to join a state-wide pension system or to conform to a state enabling act.

The committee makes the following recommendations:

1. Statutory qualifications for the office of assessor may properly include maturity, literacy, citizenship, and freedom from conviction of felonies, but should not include prior residence within the assessment district or property ownership. (Page 173.)

2. The state tax department or a state or local personnel agency should be empowered to establish further qualifications for assessors, to examine candidates, and to certify their fitness for office.<sup>1</sup> (Page 177.)

3. As a general rule, assessors should be appointed to office/ (Page 180.)

4. Appointments to the office of assessor should ordinarily be made by the chief executive or executive board of the assessment district. (Page 183.)

5. An appointed assessor should generally serve for an indefinite term of office and an elected assessor for a term of not

<sup>1</sup> This recommendation was not adopted by the Association.

less than four nor more than eight years, without restrictions as to service of successive terms. (Page 186.)

6. Assessors should be removable for good cause, by the appointing agency if appointed, by the electorate and by the courts or the head of the state tax department if elected.<sup>2</sup> (Page 188.)

7. The assessor's compensation should take the form of a fixed annual salary, not fees, commissions, or per diem allowances. (Page 190.)

8. When the compensation of the local assessor is paid entirely by the local assessment district, it should ordinarily be fixed by the legislative body of the district. (Page 193.)

9. The compensation of many assessors should be increased by means of (a) larger appropriations by existing assessment districts, (b) state aid to existing districts, or (c) the consolidation of districts of uneconomic size. (Page 195.)

10. The salary of an assessor serving a definite term of office should be altered during his term only as part of blanket changes in the compensation of all officers and employees of the assessment district. (Page 197.)

11. Membership in retirement and disability systems applicable to the general employees of assessment districts should be optional for assessors serving definite terms of office or at the pleasure of the appointing agency and mandatory for those serving indefinite terms with protected tenure. (Page 198.)

## VII. PERSONNEL ADMINISTRATION IN LOCAL ASSESSMENT OFFICES

Perhaps as many as half of the local assessment agencies in the United States are fully staffed when their assessors have been selected. Others have from one to a thousand employees subordinate to the assessor. The success of the latter agencies depends a great deal upon the competence of these employees.

Before the assessor selects someone to work in his department, he must decide what that person is to do and what pay

<sup>2</sup> This recommendation was not adopted by the Association.

is to be offered. In large departments this involves the preparation, first, of a position classification plan and, second, of a pay plan. The position classification plan is a grouping of positions according to the duties and responsibilities assigned them, so that all employees doing the same kind and grade of work are in the same class (e.g., junior appraisers), and an arrangement of classes into series, so that all classes engaged in the same kind of work are listed in order of the grade of work (e.g., junior appraisers, senior appraisers, principal appraisers). The pay plan sets forth the compensation or range of compensation which is available to persons filling positions in each class in the position classification plan. This pay plan, when expertly prepared, is based upon a study of salaries paid persons doing comparable work in private employment, in other departments of the local government, and, with adjustments for cost of living, in other communities. Where the government performing the assessment function has a central personnel agency, the position classification and pay plans are often worked out on a service-wide basis so that the assessor's subordinates receive the same pay as subordinates doing comparable work in other departments.

Many assessors have complete freedom in selecting subordinates; others must make selections subject to confirmation by a chief executive or a local legislative body; and a few, including the assessors of most of our largest cities and counties, are restricted in their choice to persons whose qualifications have been formally tested and approved by a central personnel agency. Where there is no formal testing by a central personnel agency, it is feasible, of course, for the assessor to administer his own tests. Without them, it is difficult to resist the pressure for appointment on a patronage or personal basis rather than on a merit basis.

The management of employees once they have been recruited involves a great variety of activities. Subordinates who are unhappy in their work or who have no incentive for self-improvement are a detriment to any office and a reproach to

the department head. The correction of such a situation involves a careful examination of hours of labor, working conditions, methods of promotion, in-service training programs, and other aspects of personnel management.

Despite the best personnel management, every office has the occasion, from time to time, to drop persons from the payroll. Involuntary separations are especially common in local assessment offices because of seasonal variations in work loads. Needless to say, frequent hiring and firing of employees in response to these seasonal variations not only contributes to the general problem of unemployment but detracts seriously from the quality of assessment work. It is seldom possible to secure highly qualified subordinates to fill positions for a period of a few weeks or months a year. Most assessors are fully aware of this, and some have succeeded in providing permanent employment for all of their subordinates. It seems probable that legislative and administrative action along one or more of the lines suggested in Chapter VI will contribute to the progressive diminution of the problem.

There are, of course, other reasons than seasonal decreases in work loads for discharging employees in assessment offices. Discharge policies are likely to be much influenced by appointment policies. If the spoils system holds sway in the recruitment process, it will probably also determine which subordinates are to be dropped when the necessity for curtailment of the payroll or the desire to make way for new appointees arises. But if appointments are made on a merit basis, there is much less likelihood of discharge for partisan reasons; and this is only partly due to the protected tenure which often accompanies such a system. It is true that some civil service employees, upon being discharged, are entitled to a trial before a personnel board and may be reinstated by the board if the discharge is considered unwarranted; but the absence of this protection in a good many other services has seldom resulted in the abuse of dismissal powers by department heads using a merit system of recruitment.

The committee makes the following recommendations:

1. Each position in the assessing department should be classified according to the duties and responsibilities assigned it and should be given a class title and description indicating clearly the nature and level of the work. (Page 219.)

2. A standardized pay plan should be adopted for employees in the assessing department or, preferably, for all employees of the governmental unit performing the assessment function. (Page 220.)

3. The assessor should fill vacancies in his department by the appointment of persons who have demonstrated their fitness in appropriate examinations conducted by the assessor or, preferably, by a personnel agency serving all departments of the governmental unit performing the assessment function. (Page 221.)

4. Recruitment for important administrative and technical positions should be from as wide a geographical area as possible. (Page 224.)

5. Promotions within the assessing department should be made primarily on the basis of merit, not seniority. (Page 225.)

6. Working conditions for the assessor's subordinates should compare favorably with those provided by the best private employers in the locality. (Page 226.)

7. The assessor should plan and promote in-service training programs for his subordinates. (Page 226.)

8. Disciplinary action for the violation of established rules and recognized standards of conduct should be administered promptly, fairly, and in certain terms. (Page 228.)

9. Every effort should be made to minimize temporary employment. (Page 228.)

10. The assessor should be authorized to dismiss employees in his department, but only for cause stated in writing. Where there is a central personnel agency, it should be authorized to recommend but not to order reinstatement. (Page 236.)

11. Subordinate personnel in assessment offices should re-



ceive the protection afforded by membership in a sound retirement and disability benefit system. (Page 238.)

### VIII. ADMINISTRATIVE REVIEW AGENCIES

Up to this point we have been concerned with organization for the original assessment of property taxes and the personnel engaged in the performance of that function. This is by far the most important part of the property tax assessment process, but it is not the end of the process. After the original assessment is completed, it is always subject to some administrative or judicial review and is usually subject to equalization.

The process of property tax review involves the examination of individual assessed valuations for the purpose of ascertaining whether the original assessment was justified and correcting it, or referring it back to the assessor for correction, if it was not. When the examination is made by a part of the organized judiciary, it is known as judicial review; otherwise, even though performed by what is essentially a special tax court, it is generally classified as administrative review. All judicial review agencies and some administrative review agencies are authorized to act only on complaint. Other administrative agencies are usually directed to make a detailed examination of the assessment rolls as well as to entertain appeals, although few of them change any large number of assessed valuations on their own initiative.

As a rule there is a local administrative review agency for each local assessment district, whether primary or overlapping, but a few states have county review agencies serving township-municipal assessment districts. In addition there is frequently a second level of review. Thus we find a total of 26 state administrative review districts, 2733 county districts, 10,978 township districts, and nearly 8000 municipal districts, and approximately equal numbers of review agencies.

Most review agencies have three members. These members are often elected or appointed to some other post and serve *ex officio* as members of the review board. Thus, municipal

boards are typically composed of municipal councilmen, county boards of county commissioners or supervisors, and state boards of state tax commissioners. Members who are not so selected are usually appointed by the governor if they operate on the state level and by a local court or a judge if they are on the local level.

The committee makes the following recommendations:

1. Review districts need not conform in area to assessment districts. (Page 253.)

2. Each district should be large enough to warrant the continuous employment of a full-time administrative assistant to the review agency. (Page 254.)

3. The functions of original assessment and review should be performed by independent agencies, with adequate safeguards against the development of the review agency into a coordinate assessing agency. (Page 255.)

4. The assessor, if not a member of the local review agency, should be required to attend its sessions in person or by deputy. (Page 257.)

5. In most states there should be two levels of administrative review through which an appeal may be carried by an aggrieved taxpayer. (Page 258.)

6. Members of review agencies should be appointed to office on the basis of their qualifications for the position. (Page 259.)

7. The review agency should ordinarily be a board of either three or five members. (Page 260.)

8. Terms of members of review agencies should be at least three years and preferably five or six, with provision for removal for cause. (Page 260.)

9. If an agency is created for the primary purpose of reviewing assessments, the members should serve overlapping terms. (Page 261.)

10. Compensation of members should be adequate to attract qualified persons to the office and, in the case of large review districts, should be in the form of a fixed amount per annum. (Page 261.)

11. The review procedure should be uniform for all assessments of a given agency. (Page 262.)

### IX. JUDICIAL REVIEW AGENCIES

Whether or not there is an independent administrative agency to which an assessor's decision may be appealed—and there is usually at least one—the taxpayer always has some recourse to the courts. The area of judicial review is, however, much broader in some states than in others. In slightly over half of the states in the Union, the courts have much the same authority as administrative review boards, except that they lack the power to change assessed valuations on their own motion and usually cannot raise valuations if they find the original assessment too low. The courts of these states customarily review appealed assessments in *de novo* proceedings, but with a presumption in favor of the assessed valuation which is given much weight by some courts and little by others. If the judgment of the court is unsatisfactory to either party, the appeal may be carried on into the higher courts of many states.

The courts of nearly half of the 48 states have jurisdiction over only *illegal* assessments. There are, of course, a good many circumstances in which an assessment may be declared illegal; for example, the property may be exempt from taxation. But there are only three grounds on which the legality of the assessor's *appraisal* can be challenged: The complainant must allege (1) that the assessor or administrative review agency has acted fraudulently; (2) that the assessor or administrative review agency has acted arbitrarily; or (3) that the property has been grossly overvalued, either relative to other property or relative to its true value.

The federal courts are likewise limited in jurisdiction to the review of illegal taxes and are further limited to cases involving diversity of citizenship or a federal constitutional question. There has been much controversy in the past five years over the extent to which these courts have accepted the doctrine that overvaluation without showing of discrimination justifies

a judgment in favor of the taxpayer. Not many months ago, however, the United States Supreme Court rejected the doctrine in substance as have a number of state courts.

The courts which may alter assessments for no other reason than that their appraisals differ somewhat from the assessor's are said to review questions of fact as well as questions of law. This unlimited judicial review of administrative action is demanded by some lawyers and jurists as necessary to the maintenance of government "by law and not by men." But able exponents of the administrative viewpoint urge that the judiciary is not trained or skilled in valuation and hence is unfitted for determination of facts in assessment appeals. Whether the administrative agencies are better qualified depends upon the degree of perfection attained in their organization and staffing. It is the committee's belief that the required degree of perfection is readily attainable and that it has, in fact, been attained in a number of states now imposing upon the courts the duty of reviewing the accuracy of assessed valuations.

The following recommendations are made:

1. Where there is a competent administrative review agency on the state level, its determination of questions of fact should be final if supported by substantial evidence. (Page 280.)
2. If finality is not given to decisions of the highest administrative agency on questions of fact, plaintiffs should at least be required to exhaust their administrative remedies before appealing to the courts on such questions. (Page 282.)
3. Exhaustion of administrative remedies should also be required as a condition precedent to judicial review of questions of law involving valuation of property. (Page 283.)
4. The judicial concept of constructive fraud should be restricted by statute to a showing of discrimination and should not extend to a mere showing of overvaluation. (Page 284.)
5. In no event should appeals on assessments be tried by jury. (Page 286.)
6. The process of judicial review should be simplified and clarified so that taxpayers will be more fully aware of their

rights and duties and taxes will be collected as promptly as possible. (Page 286.)

It is believed that the courts themselves would welcome the adoption of these recommendations. Many of them have displayed marked reluctance to enter the valuation field and have given effect to the factual findings of the administrative review boards whenever they could do so in good conscience. Our proposals would relieve the judiciary of an onerous duty, terminate a certain amount of inexpert tinkering with assessed valuations, and contribute to a general strengthening of the administrative review process by concentrating responsibility and focusing attention upon the administrative agencies.

#### X. EQUALIZATION AGENCIES

The functions of review and equalization are seldom distinguished by the general public and are often intermingled in practice. This intermingling is not undesirable, but the confusion must be removed if the assessment institutions of certain states which assign the two functions to separate agencies are to be understood and if the techniques which are appropriate to equalization and not to review are to be adopted.

Equalization is the process by which an agency increases or decreases by a uniform percentage the assessed valuation of all property, or all property of a particular class, within a single tax or assessment district. It is intended to serve various purposes: (1) to bring the average assessment ratios of two or more tax or assessment districts to a common level before the imposition of a tax intended to bear uniformly upon all districts; (2) to bring such average ratios to a common level before the distribution of funds to tax districts according to a formula involving assessed valuations; (3) to bring the average assessment ratios for state-assessed property and locally assessed property to a common level when both are subject to the same or related tax rates; (4) to make tax levy and debt

limitations based on assessed valuations effective by equalizing the average assessment ratio and the legal ratio; and (5) to bring the average assessment ratios for various classes of property to a common level before imposition of a tax intended to bear uniformly on all classes.

Equalization powers are possessed by many administrative review agencies but are infrequently exercised if the agency has jurisdiction over only one local assessment district. The equalization and review agencies with jurisdiction over more than one local assessment district include 19 state, 728 county, and 24 city agencies. There are, in addition, 20 state agencies and 309 county agencies which have equalization powers but may not review individual assessments.

County equalization agencies having jurisdiction over more than one assessment district may alter assessed valuations by assessment districts and usually by classes of property. All state equalization agencies may alter assessed valuations by counties; 26 may alter them by classes of property; and 24 by minor tax districts.

An equalization board, unlike a review board, is not bound by the federal constitution to give notice of orders increasing assessed valuations or to afford taxpayers or their representatives hearings on request. Statutory rights of appeal exist in a minority of states, and court appeals are usually confined to questions of law.

The procedure of equalization involves two steps. First, the average assessment ratio must be found for a group of properties. Among the more competent agencies this is done by a sampling process or by a reappraisal of the whole group. The second step is to put this finding into effect. This is sometimes accomplished by changing, or ordering a local official to change, each of the assessments of property subject to the order; but frequently it is done simply by basing calculations as to state tax rates, the apportionment of state funds, etc., on a hypothetical aggregate assessed valuation higher or lower than that on the assessor's books.

Such information as is available indicates a low degree of success in county equalization and far less success than might reasonably be expected in state equalization. The only notable achievements are those of agencies resting their decisions on facts gathered by a full-time staff of qualified, well-paid persons.

The committee makes the following recommendations:

1. The need for local equalization agencies should be removed by the enlargement of local assessment districts, by functionalization and close coordination of the work of deputy assessors, and by an expansion in the activities of state equalization agencies. (Page 312.)

2. A state equalization agency should be maintained in at least those states which impose taxes, share taxes, or make grants-in-aid on the basis of local assessed valuations, or in which some property is state-assessed but is taxed at local rates or at an average of local rates. (Page 314.)

3. Members of an equalization agency should be chosen at large by a person or persons representing the whole equalization district and not by representatives of portions of the district. (Page 316.)

4. Equalization agencies should be given powers of assessment review unless independent agencies for assessment review and for assessment supervision exist on the same level, in which case the equalization function should be assigned to the supervisory agency. (Page 317.)

5. State equalization agencies should be permitted to equalize by minor tax districts and by classes of property as well as by counties. (Page 319.)

6. Equalization agencies should be given the option of ordering changes in individual assessed valuations or in tax rates and distribution ratios. (Page 321.)

## XI. ASSESSMENT SUPERVISION

Some outside supervision is given to all of the steps in the assessment process—the original assessment, the review of in-

dividual assessments, and the equalization of groups of assessed valuations—in almost all states. In saying this, however, we are deliberately using the term “supervision” to embrace activities which might better be described by the words “advice” and “assistance.” Even without this expansion of the term, it is vague enough to make a precise enumeration of assessment supervisory agencies a futile undertaking. However, we have more or less arbitrarily directed our attention to some 46 state agencies, 398 county agencies, and perhaps two hundred city agencies which have legal authority to influence appreciably the procedures of agencies directly responsible for the performance of the assessment function.

Supervision by municipal agencies is, or might well be under the law, of a very intimate nature. Not only is the assessor in most cities having a strong mayor or council-manager form of government subject to general supervision by the chief executive, but he is subordinate to the finance director in a good many council-manager cities and to the finance commissioner in most cities which are governed by a commission. In all instances the assessor retains at least a vestige of final authority by signing the assessment roll, but he can become little more than a chief deputy assessor if he serves under an aggressive finance officer who holds, by law or in practice, the power of appointment without showing of merit or of dismissal without showing of cause.

County supervisory agencies are found in several of the states which are divided into township-municipal assessment districts. Where the supervisor has few other duties, as in Indiana and five counties in Kansas, supervision is usually fairly close; elsewhere it is likely to be superficial and largely ineffective.

While we have identified state supervisory agencies in all states except Delaware and Pennsylvania, there are nearly a dozen more states whose supervisory agencies have few powers, and less than a dozen in which an active program of supervision has been instituted. There is little correlation between law and practice in this field. The number of different supervisory



powers available to the state tax departments of South Carolina and South Dakota is great but actual supervision is negligible, while the more modest powers of the Wisconsin department have been exercised with an energy which has won the department much fame.

Most of the activities of state supervisory agencies are of an educational character. Such activities include answering individual inquiries, sponsoring assessment conferences, issuing manuals and other literature, and demonstrating methods through the medium of field agents. Other supervisory activities are investigational or regulatory in nature. Classified as regulatory are the well-nigh universally exercised power to prescribe forms and the less frequently granted and seldom exercised power to issue rules and regulations. Although commonly armed with drastic enforcement measures, such as reassessment orders and proceedings for the removal of assessors from office, state tax authorities have usually preferred to keep the iron fist well concealed within a velvet glove.

The committee makes the following recommendations:

1. The assessor should be under the general supervision of the chief executive or the executive board of the governmental unit which performs the assessment function. (Page 347.)

2. Supervision of township and municipal assessors by county agencies should, as a rule, be abandoned and any need which it may be designed to satisfy removed by enlarging local assessment districts or by expanding the supervisory activities of the state tax department. (Page 352.)

3. The state tax department, or some similar agency, should supervise local assessors whether or not the state imposes a property tax for its own support. (Page 353.)

4. The state tax department should exercise its supervisory powers principally by interpreting the tax law, disseminating useful information concerning assessment methods and property values, and providing technical assistance on difficult aspects of the assessor's task. (Page 355.)

5. Drastic enforcement measures, such as issuance of reassessment orders and institution of proceedings for removal from office, should be employed only on petition of the local assessing officer, the board of review, the chief executive of the assessment district, or a substantial body of taxpayers and after careful investigation by the supervisory agency. (Page 356.)

6. Ordinarily, the state supervisory staff should be organized functionally where the county serves as the assessment district and geographically elsewhere. (Page 357.)

7. Supervisors should be selected only after showing of merit and dismissed only after showing of good cause. (Page 359.)



## PART TWO



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## *Chapter I*

### **Primary Local Assessment Districts**

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**T**HE PROPERTY TAX is perhaps the most familiar aspect of public finance in the United States. It is one of the oldest taxes in our revenue systems. It has up to the present yielded more revenue than any other single tax. It reaches the largest group of direct taxpayers. And it is almost the only important tax administered by local officials. Nevertheless, there are many aspects of property taxation with which even well-informed citizens are unfamiliar, and the familiarity of the better informed seldom extends beyond the boundaries of their city, county, or state. For this reason, it seems appropriate to begin this description of assessment organization and personnel with a thumbnail sketch of the property tax process.

The property taxing process may be said to begin when the appropriate legislative body defines the tax base and establishes the necessary administrative machinery. The state legislature usually takes these initial steps, although local legislative bodies and the electorate itself may participate in some degree. The next act required of the legislative branch of government is the determination of either the tax rate or the tax levy.<sup>1</sup> Special property tax rates are usually set by the state legislature alone, but general property tax rates or levies are set by the legislative bodies of all levels of government which

<sup>1</sup> The tax levy is the total number of dollars of taxes to be billed to property owners. Its relation to the tax rate and the tax base is best described by the formula: Tax Base  $\times$  Tax Rate = Tax Levy. If the tax base has previously been measured, the rate and the levy can be determined simultaneously by the legislative body.

participate in the tax proceeds. Rate or levy determination is usually preceded, however, by the measurement of the tax base.

The measurement of the aggregate tax base, and of individual shares in the aggregate tax base, is an administrative, rather than a legislative, process. This is the assessment function, which is described in the succeeding paragraphs. It is followed by a second administrative process, commonly known as the "extension of taxes," which consists of multiplying each person's tax base (or "assessment") by the tax rate. The administration then culminates in the third step, tax collection.

### THE ASSESSMENT FUNCTION

The property tax assessment function may best be described as the *discovery* of taxable property, the *valuation* of that property, and the *recording* of property descriptions and valuations in the manner prescribed by law. Various agencies contribute to the performance of this function. First, there is the assessor himself, who makes a preliminary compilation (the "original assessment") of property descriptions and appraisals on an official document customarily designated as the "assessment roll." Then, in the typical situation, this document is turned over to a second agency, which checks it for completeness and accuracy and listens to complaints of taxpayers in what is known as the "assessment review." This review is usually followed by the equalization process, which is administered sometimes by the assessment review agency and sometimes by still another agency, and whose principal object is to see that the assessment roll in question is not out of line with the rolls prepared by other assessors. Impinging upon some or all of these processes, but not necessarily directly participating in any one of them, may be one or more supervisory agencies.

This and the next five chapters deal with the organization and personnel of agencies which have the sole or primary duty of making the original assessment. The review and equali-

zation functions are treated in Chapters VII, VIII, and IX; and the supervisory function is the subject of the final chapter.

Property tax assessment in the United States has always been highly decentralized. The federal government has been practically prohibited by the Constitution from imposing this type of tax. Few state governments are similarly restricted, and all of them have at some relatively recent date financed themselves in large part out of property tax receipts. However, state governments have, without exception, delegated the major role in the administration of the tax to their political subdivisions. This policy of delegation has not been unaffected by the centralization movement of recent decades, but the movement has now been just about offset by the declining interest of state legislators in property taxes as they have gradually surrendered this source of revenue to their local governments. It is therefore a reasonably safe prediction that property tax administration will continue indefinitely to be primarily a function of the counties, cities, or other political subdivisions of most, if not all, of the 48 states. This chapter is devoted to an examination of these political subdivisions and to an appraisal of their acceptability as assessment districts.

#### WHAT IS AN ASSESSMENT DISTRICT?

An assessment district has been defined as "the area within whose boundaries the public officer or agency legally responsible for making the original assessment of taxes has jurisdiction."<sup>2</sup> This definition is acceptable for most purposes. However, when the boundaries of such an area coincide with those of a governmental unit and the assessor is an officer of that unit, it is often more convenient to speak of the assessment district as if it were a corporate entity rather than a mere geographical area. For example, we have recommended that assessment districts be encouraged to assess at full value. It is obvious that an *area* cannot be encouraged and that the

<sup>2</sup> National Association of Assessing Officers, Committee on Assessment Terminology, *Assessment Terminology*, Chicago, 1937, p. 7.



term "assessment district," as used in this recommendation, refers to a government or a public agency.

As a rule, this alternative usage will give rise to no confusion, but there is one exception to this rule. It not infrequently happens that the assessor is an officer of a governmental unit whose area exceeds that of the assessment district. For example, in all but the seven most populous Pennsylvania counties, an assessor is elected in each township; but these township assessors are paid by the county and are generally regarded as county officers. Again, in Iowa, there are a few townships which lie partly within and partly without a municipality; the portion of the township which lies outside the municipality is a separate assessment district, but its assessor is regarded as either a township officer or a county officer.<sup>3</sup> Under these circumstances, the assessment district is more clearly defined by the area concept than by the governmental unit concept.

A second aspect of the definition of an assessment district which calls for some comment is the phrase "public officer or agency legally responsible for making the original assessment of taxes." It is quite possible to confuse the assessing officer with a supervisor or board of assessment review on the one hand, or with his deputy assessors on the other. Confusion of the first sort would result in an understatement of the number of assessment districts in several states, since each supervisor normally, and each board of review occasionally, has jurisdiction over a number of assessors. To call a deputy assessor an assessor would, of course, result in an overstatement of the number of assessment districts, since each assessor normally has several deputies.

The titles conferred by law upon particular persons involved in the original assessment and review processes are not to be relied upon in drawing a distinction between a supervisor or reviewer and an assessor, or between an assessor and a

<sup>3</sup> Just what identifies a person—especially one who is elected to office—as an officer of a particular government is not at all clear. However, this question, though material to the Pennsylvania example, is not at issue in the example last cited.

deputy assessor. In North Carolina, for example, there is a county officer known as the "tax supervisor," but he has approximately the same powers as officers who are called "assessors" elsewhere. Conversely, there is a county officer in Indiana known as an "assessor," but the state tax law, when viewed in its proper historical perspective, reveals that he is primarily a supervisor of township assessors rather than an assessor.<sup>4</sup> A criterion which seems more useful, though also somewhat legalistic, is the certification of the assessment roll or book; the first person to certify the roll is usually the assessor, and any subsequent certification is by a review agency. Another useful criterion is found in the authority to change the assessment roll; the officer who has final authority to change the roll before taxpayers are first officially notified of their assessments<sup>5</sup> is usually the assessor, and anyone who can subsequently change it is a supervisor or reviewer. Unfortunately, these two formulas for identifying assessors occasionally produce different results when applied in a single state and neither is applicable in a few states. Consequently, there is sometimes room for dispute as to which of several persons is the assessing officer.

Before proceeding to an enumeration of local assessment districts in the United States, it is necessary to distinguish two different types of districts—primary assessment districts and overlapping assessment districts. By a primary local assessment district we mean one of a group of similar or coordinate governmental units<sup>6</sup> which are contiguous and which together occupy the whole area of the state. The county assessment districts of most of our southern and western states are the simplest

<sup>4</sup> See H. L. Lutz, *The State Tax Commission*, Harvard University Press, Cambridge, 1918, p. 151 ff.

<sup>5</sup> This notice may be statutory rather than personal, in which case taxpayers must inform themselves of their assessments by examination of the rolls in some designated public place.

<sup>6</sup> In a few instances these districts are areas rather than governmental units. These exceptions are not embraced within this definition, since it is difficult to conceive of "coordinate" areas, but they present no particular problems of classification.

TABLE 1. NUMBER OF PRIMARY LOCAL ASSESSMENT DISTRICTS, BY STATES AND TYPES OF GOVERNMENTAL UNITS, APRIL 1, 1940

	Counties <sup>a</sup>	Townships	Municipalities <sup>c</sup>	City Wards <sup>d</sup>	School and Civil Districts	Unorganized Areas	Total
Ala. ....	67	—	—	—	—	—	67
Ariz. ....	14	—	—	—	—	—	14
Ark. ....	75	—	—	—	—	—	75
Calif. ....	58	—	—	—	—	—	58
Colo. ....	63	—	—	—	—	—	63
Conn. ....	—	154	15	—	—	—	169
Del. ....	3	—	—	—	—	—	3
Dist. Col. ....	—	—	1	—	—	—	1
Fla. ....	67	—	—	—	—	—	67
Ga. ....	159	—	—	—	—	—	159
Idaho ....	44	—	—	—	—	—	44
Ill. ....	19	1383	—	—	—	—	1402
Ind. ....	—	1015	—	—	—	—	1015
Iowa ....	—	1607	931	—	—	—	2538
Kan. ....	—	1550	89	—	—	—	1639
Ky. ....	120	—	—	—	—	—	120
La. ....	64	—	—	—	—	—	64
Maine ....	—	483	21	—	—	1	505
Md. ....	23	—	1	—	—	—	24
Mass. ....	—	312	39	—	—	—	351
Mich. ....	—	1266	147	66	—	—	1479
Minn. ....	1	1879	672	—	—	35	2587
Miss. ....	82	—	—	—	—	—	82
Mo. ....	90	345	1	—	—	—	436
Mont. ....	56	—	—	—	—	—	56
Nebr. ....	—	476	—	500	—	962	1938
Nev. ....	17	—	—	—	—	—	17
N. H. ....	—	223	11	—	—	1	235
N. J. ....	—	235	331	—	—	—	566
N. M. ....	31	—	—	—	—	—	31
N. Y. ....	1	932	59	—	—	—	992
N. C. ....	100	—	—	—	—	—	100
N. D. ....	—	1410	329	8	—	80	1827
Ohio ....	88	—	—	—	—	—	88
Okla. ....	77	—	—	—	—	—	77
Ore. ....	36	—	—	—	—	—	36
Pa. ....	7	1383	732	285	—	—	2407
R. I. ....	—	32	7	—	—	—	39
S. C. ....	2	260	80	—	400 <sup>e</sup>	—	742
S. D. ....	—	1163	303	—	—	28	1494
Tenn. ....	92	—	—	—	39 <sup>f</sup>	—	131
Texas ....	254	—	—	—	—	—	254
Utah ....	29	—	—	—	—	—	29
Vt. ....	—	238	8	—	—	5	251
Va. ....	100	—	24	—	—	—	124
Wash. ....	39	—	—	—	—	—	39
W. Va. ....	55	—	—	—	—	—	55
Wis. ....	—	1279	512	—	—	—	1791
Wyo. ....	23	—	—	—	—	—	23
	1956	17,625	4313	859	439	1112	26,304

Sources and footnotes at bottom of p. 39

examples. The assessors of primary districts assess state and county property taxes wherever these levels of government impose such taxes, and they often assess the taxes of some or all of the other political subdivisions of the state. An overlapping local assessment district, on the other hand, is a governmental unit which is authorized to establish an assessing agency and to list and appraise property for its own tax purposes<sup>7</sup> despite the fact that the same property has been listed and appraised by the assessing agency of a primary district. A simple example of overlapping assessment districts is found in Florida, where the counties are primary districts and all of the cities are overlapping districts. Primary local assessment districts exist in all states, but overlapping districts are found in less than half the states.

#### THE CENSUS OF PRIMARY LOCAL ASSESSMENT DISTRICTS

There are between twenty and thirty thousand primary local assessment districts in the United States. The exact number is subject to dispute, principally because there is some question as to who are the local assessors in Indiana, Kansas, Maryland, Nebraska, North Carolina, South Carolina, and parts of Illinois.<sup>8</sup> Our own conclusion is that the number is approximately 26,300. Table 1 shows the distribution of this total by states and by types of governmental units.

<sup>7</sup> And occasionally for the tax purposes of school districts or other minor governmental units.

<sup>8</sup> Indiana, Kansas, and Nebraska have both county and township assessors. Maryland, outside the city of Baltimore and two or three counties for which

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Sources: State statutes; Bureau of the Census, *Sixteenth Census of the United States, 1940* (press releases, series P-2 and P-2a); and sources listed on pp. 363-64.

<sup>a</sup> Also includes parishes in Louisiana; consolidated cities and counties in California, Colorado, and Pennsylvania; and a consolidated city and parish in Louisiana.

<sup>b</sup> Also includes New England towns; rural towns in New York, Minnesota, and Wisconsin; and plantations in Maine.

<sup>c</sup> Includes cities in all states for which there is an entry in the column except Pennsylvania; villages in Minnesota, New Jersey, North Dakota, and Wisconsin; urban towns in Iowa, New Jersey, North Dakota, Pennsylvania, South Carolina, and South Dakota; and boroughs in Connecticut, Minnesota, New Jersey, and Pennsylvania.

<sup>d</sup> Also includes portions of a city other than wards in Michigan and North Dakota.

<sup>e</sup> Each assessment district consists of one school district or of two or more school districts.

<sup>f</sup> Each assessment district consists of one civil district or of two or more civil districts.

The 48 states may be divided roughly into three groups. (See Table 2.) First, there is a group of 26 states in which counties or their equivalent constitute the primary assessment districts throughout the state. Included within this group are three states—California, Colorado, and Louisiana—each of which has one consolidated city and county.<sup>9</sup> Also included are Maryland, with one city (Baltimore) which is not within the boundaries of any county and is therefore considered to be the equivalent of a county, and Virginia, all 24 of whose cities are similar to Baltimore in this respect.

The second group consists of 15 states which are wholly divided into township assessment districts *or their equivalent*. Much emphasis must be placed upon the italicized words in this statement, however, for Indiana is the only state divided wholly into assessment districts specifically designated as townships. Some of the other states in this group, including all of the New England states, call their rural districts towns rather than townships; and all of the other states in the group except Iowa have a considerable number of incorporated municipalities which bear much the same relation to their townships as Virginia cities do to the counties of that state.<sup>10</sup> Iowa is unique in that the state is fully divided into townships<sup>11</sup> but these townships serve as assessment districts only outside the municipalities which are superimposed upon them.

The third group consists of 7 states which have the county a different organization has been created by special acts, has *county commissioners*, county supervisors of assessments, and assessors who operate in election districts or other designated areas. North Carolina has *county tax supervisors* and township "list takers and assessors." South Carolina has county auditors and township, municipal, or school district boards of assessors. In Illinois the majority of counties have county supervisors of assessments (treasurers, ex officio) and township assessors, while counties with populations exceeding 150,000 have county assessors or boards of assessors and also have township assessors in townships not wholly within a city. The officers indicated by italics are those which we have concluded, somewhat arbitrarily in certain cases, are the assessing officers in their respective states or counties.

<sup>9</sup> In Louisiana the unit of government corresponding to counties elsewhere is called a "parish."

<sup>10</sup> These municipalities are variously designated as towns, cities, villages, and boroughs. Table 11, p. 364, enumerates them by their legal designations.

<sup>11</sup> Except for the area within the limits of Sioux City.

assessment district pattern in one or more counties and the township pattern elsewhere. The number of these county assessment districts ranges from 1 in Minnesota and New York

TABLE 2. CLASSIFICATION OF STATES BY PRIMARY LOCAL ASSESSMENT DISTRICT PATTERNS, JANUARY 1, 1941

County Pattern	Township Pattern	Mixed Pattern
Alabama	Connecticut	Illinois <sup>f</sup>
Arizona	Indiana	Minnesota <sup>g</sup>
Arkansas	Iowa	Missouri <sup>h</sup>
California <sup>a</sup>	Kansas	New York <sup>i</sup>
Colorado <sup>a</sup>	Maine <sup>o</sup>	Pennsylvania <sup>j</sup>
Delaware	Massachusetts	South Carolina <sup>k</sup>
Florida	Michigan	Tennessee <sup>l</sup>
Georgia	Nebraska <sup>o</sup>	
Idaho	New Hampshire <sup>o</sup>	
Kentucky	New Jersey	
Louisiana <sup>b</sup>	North Dakota <sup>o</sup>	
Maryland <sup>c</sup>	Rhode Island	
Mississippi	South Dakota <sup>o</sup>	
Montana	Vermont <sup>o</sup>	
Nevada	Wisconsin	
New Mexico		
North Carolina		
Ohio		
Oklahoma		
Oregon		
Texas		
Utah		
Virginia <sup>d</sup>		
Washington		
West Virginia		
Wyoming		

Source: Table 1.

<sup>a</sup> Contains one consolidated city and county (San Francisco, California, and Denver, Colorado).

<sup>b</sup> The parishes of this state are the equivalent of counties elsewhere. Orleans Parish and the city of New Orleans are consolidated.

<sup>c</sup> The city of Baltimore is not within the jurisdiction of a county and is therefore the equivalent of a county for tax purposes.

<sup>d</sup> The 24 cities of Virginia are the equivalent of counties for tax purposes.

<sup>e</sup> Contains "unorganized areas" having no township governments or their equivalent.

<sup>f</sup> County assessment in Alexander, Calhoun, Cook, Edwards, Hardin, Johnson, Massac, Menard, Monroe, Morgan, Perry, Pope, Pulaski, Randolph, St. Clair, Scott, Union, Wabash, and Williamson counties.

<sup>g</sup> County assessment in Ramsey County. Many other counties contain unorganized areas.

<sup>h</sup> Township assessment in Barton, Bates, Caldwell, Carroll, Cass, Chariton, Dade, Daviess, DeKalb, Dunklin, Gentry, Grundy, Harrison, Henry, Linn, Livingston, Mercer, Nodaway, Putnam, Stoddard, Sullivan, Texas, Vernon, and Wright counties.

<sup>i</sup> County assessment in Nassau County.

<sup>j</sup> County assessment in Allegheny, Delaware, Lackawanna, Luzerne, Montgomery, Philadelphia, and Westmoreland counties.

<sup>k</sup> County assessment in Berkeley and Charleston counties.

<sup>l</sup> Assessment by civil districts in Carroll, Carter, and Coffee counties.

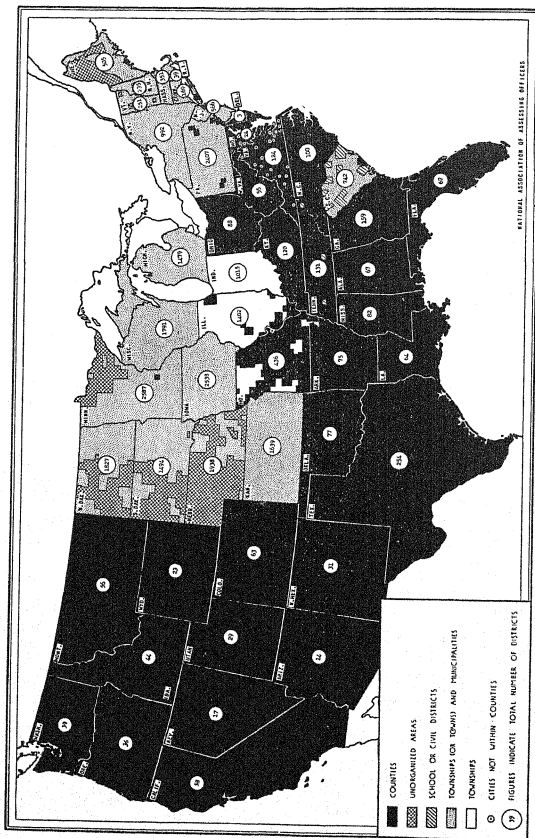


FIGURE 1. PRIMARY LOCAL ASSESSMENT DISTRICTS

to 92 in Tennessee. The particular variation of the township assessment district pattern to be found in the remainder of each such state is indicated in Table 11, page 364.

A complicating factor in this classification of states according to the three assessment district patterns is found in the "unorganized areas" of seven states. For the most part, these unorganized areas are counties or parts of counties having no township governments or their equivalent within states whose counties are typically divided into townships or their equivalent.<sup>12</sup> Such areas exist in Maine, Nebraska,<sup>13</sup> New Hampshire, Vermont, Minnesota, and the Dakotas. Their assessing officers have varying jurisdictions. In Maine and New Hampshire the state tax department assesses all such areas;<sup>14</sup> in South Dakota and Vermont there is an assessing agency for each county containing such areas, and this agency assesses all of the county which is unorganized; in Minnesota, Nebraska, and North Dakota the unorganized area within a given county is usually divided into several assessment districts.<sup>15</sup>

Municipal and township primary assessment districts greatly outnumber county districts. In fact, the counties constitute but 7 per cent of all primary assessment districts, as compared with 16 per cent for municipalities and 67 per cent for townships. City wards, school and civil districts, and unorganized areas make up the remaining 10 per cent.

<sup>12</sup> In addition, there are five South Dakota counties which are "established but unorganized" and are attached to adjoining counties for administrative purposes. North Dakota counties have recently been authorized to deorganize, but none has done so as yet.

<sup>13</sup> The inclusion of Nebraska in this category may seem strange to those familiar with local government there and in other states in the category. In the other six states, unorganized areas are sparsely settled areas; in Nebraska they include some of the most densely populated rural areas of the state. In this respect, those Nebraska counties which have no townships resemble the counties of our southern and western states, but their assessment district pattern resembles that found in our mid-western states.

<sup>14</sup> New Hampshire unorganized places have the option of selecting local assessors but do not do so. See Institute for Government Research, *Report on a Survey of the Organization and Administration of the State, County, and Town Governments of New Hampshire*, 1932, p. 515.

<sup>15</sup> These districts coincide with precinct lines in Nebraska and with county commissioner districts in North Dakota. In Minnesota they are laid out by the county board.



# POPULATIONS AND ASSESSED VALUATIONS OF PRIMARY LOCAL ASSESSMENT DISTRICTS

Primary local assessment districts range in population all the way from 7,454,995 in New York City down to 4 in the borough of South Cape May, New Jersey. But South Cape May is more nearly typical of assessment districts in general than New York City. There are more districts with populations of less than 50 than there are with populations exceeding 100,000, and there are nearly as many districts with populations of less than 100 as there are with populations in excess of 30,000.

Table 3 is a distribution of assessment districts into various population groups. Perhaps the most significant aspect of the table is its disclosure that *88 per cent of all primary local assessment districts have populations of less than 5000*. This preponderance of small districts is due in large measure to townships, 96 per cent of which have less than 5000 inhabitants. However, the concentrations of miscellaneous districts and municipalities in this population group are almost as great—95 and 85 per cent respectively. The county districts, on the other hand, are concentrated most heavily in the 10,000 to 30,000 population group, with a median population of around 18,000.

TABLE 3. DISTRIBUTION OF PRIMARY LOCAL ASSESSMENT DISTRICTS BY POPULATION GROUPS AND TYPES OF GOVERNMENTAL UNITS, APRIL 1, 1940

Population	Counties	Townships	Municipalities	Other Districts	Cumulative Total
1,000,000 and over.....	5	—	2	—	7
500,000 to 999,999.....	5	—	6	—	18
300,000 to 499,999.....	19	1	4	—	42
100,000 to 299,999.....	54	7	29	—	132
50,000 to 99,999.....	145	11	40	—	328
30,000 to 49,999.....	269	34	64	1	696
10,000 to 29,999.....	976	217	232	26	2147
5,000 to 9,999.....	317	424	259	98	3245
Under 5,000.....	166	16,931	3677	2285	26,304
	1956	17,625	4313	2410	

Source: Bureau of the Census, *Sixteenth Census of the United States, 1940* (press releases, series P-2 and P-2a).

The distribution of assessment districts into various population groups is shown for each state in the Appendix.<sup>16</sup> In order to facilitate comparison between states, the number of districts within any particular population group is there expressed as a percentage of the total number of districts in the state. This tabulation again emphasizes the prevalence of small assessment districts in states which are wholly or largely committed to the township pattern. It also demonstrates that there are several states with the county pattern in which the bulk of the districts are in the lowest population groups. The latter are principally the sparsely settled states of the Rocky Mountain area.

Similar distributions of assessment districts by assessed valuations would be enlightening, but much of the information that would be required has never been compiled. Furthermore, the comparability of such data, at least as between states, is affected perhaps as much by differences in ratios of assessed to full values as by differences in taxable property. Some conception of the distribution can be gained, however, from the population table, since the correlation between population and assessed valuation is fairly high. Assessments seldom fall below \$500 per capita in the absence of decided undervaluation, and they seldom exceed \$2000 per capita. The range in assessed valuations for individual districts is from a little over \$17,000,000,000 in New York City to around \$25,000 in a number of districts in cutover forest areas, the dust bowl, and the bad lands. In 1937 there were 12 primary districts with assessed valuations in excess of one billion dollars and 10 with assessed valuations of between half a billion and one billion dollars.<sup>17</sup> At the other extreme, there are probably over 20,000 assessment districts with assessed valuations of less than \$5,000,000.

<sup>16</sup> P. 365.

<sup>17</sup> These data include assessments of intangibles whether subject to low rates or to general property tax rates and also include centrally assessed properties which are subject to local taxes.

These population and assessed valuation data tend to exaggerate the aggregate importance of minuscule assessment districts. Twenty-one per cent of the inhabitants of the United States reside in primary assessment districts with populations in excess of 500,000, and just a little fewer than one-half reside in districts of over 50,000 population. Furthermore, there is an even heavier concentration of taxable property in the large assessment districts. Districts of over 1,000,000 population contain 16 per cent of the population of the United States and 24 per cent of the assessed valuation; districts of over 500,000 contain 21 per cent of the population and 32 per cent of the assessed valuation; and districts of over 300,000 contain 28 per cent of the population and 40 per cent of the assessed valuation. It is estimated that a little over half of the assessed valuation of the country is taxable in assessment districts with populations exceeding 100,000.<sup>18</sup>

### RECOMMENDATIONS

The committee is convinced that existing assessment district patterns constitute a major obstacle to improved assessment administration in at least one-third of the states of the Union. History lends little encouragement to those who seek to remove this obstacle. Special tax study committees, state tax commissions, and other investigators have urged realignment of assessment districts in most of these states; but those who have a vested interest in the status quo and those who seek to discredit property tax administration have thus far proved more influential in legislative circles. However, there is some evidence that the resistance to reform is being lowered in several states, and the movement is at least being kept alive elsewhere. The committee therefore adds the following to a long line of earlier recommendations concerning primary local assessment districts.

<sup>18</sup> Data compiled from *Financial Statistics of Cities over 100,000 Population, 1937; Assessors' News Letter* (1939) v. 5, p. 54; and miscellaneous state reports. See footnote 17 for an explanation of what is included in assessed valuations.

**1. *The assessment district should ordinarily be coterminous with the political subdivision performing the assessment function.***

At present there are a few instances in which a governmental unit is charged with the performance of the assessment function but does not serve as the assessment district. This situation may arise in any of three ways: (1) The governmental unit may perform the function in part of its area while the remainder of its area is assessed by an overlapping governmental unit;<sup>19</sup> (2) the governmental unit may be divided into several parts with an autonomous assessing agency in each part; (3) two or more governmental units may cooperate to form a single assessment district.

The first of these procedures is illustrated by a situation which existed a few years ago in Allegheny County, Pennsylvania. In 1935, the Pennsylvania legislature passed an act making primary assessment districts of (1) the city of Pittsburgh and (2) that part of Allegheny County lying outside the city limits. The law was declared invalid shortly after its enactment, for the reason that it provided no machinery for equalizing the city assessments with the assessments outside the city and thus failed to afford protection against an unjust distribution of county taxes. But there was a second defect in the law. The city assessment was financed largely out of taxes on real property within its boundaries. But the same property contributed about half of the tax revenues of the county, with the result that the holders of city property not only paid the cost of assessing their own property but also paid about half the cost of assessing property lying outside the city. This injustice could have been remedied only by imposing a county tax rate within the city limits lower than the rate imposed outside the city or by requiring the county to defray the cost of the city assessment. But the first of these alternatives is unconstitutional in Pennsylvania, as it is in most other

<sup>19</sup> Note that this overlapping governmental unit is not an overlapping assessment district. See p. 60.

states; and the second is probably a poor substitute for outright assumption of the function by the county.

The second situation in which the assessment district does not coincide with the governmental unit performing the assessment function also finds its best illustration in Pennsylvania. Fourth- to eighth-class Pennsylvania counties may be said to perform the assessment function; but each township, borough, and city ward has a full-fledged original assessment agency. The result has been the creation of uneconomically small assessment districts and the raising of an equalization problem which is rather ineffectively handled by many of the county boards of revision. The equalization problem is inherent in this pattern of assessment districts as long as the cost of assessing, or of any other activity of the governmental unit performing the assessment function, is defrayed out of property tax collections. The problem of uneconomically small assessment districts may or may not appear, depending upon the size of the governmental unit performing the assessment function.

The third case of assessment districts not coterminous with the governmental units responsible for the assessment function is one in which two or more governments join together into a single primary assessment district without becoming joined to the extent of creating a new governmental unit. This union has apparently never been required by state law and is not known to have occurred by voluntary action on the part of local governments. Comparable action has occurred in other fields of public administration but not in sufficient volume to suggest that the resistance to enlargement of assessment districts will often be overcome by this means.

**② *The political subdivision performing the assessment function should be one which engages in other important governmental activities and which finances itself in large measure out of property tax receipts.***

One logical approach to the problem of primary assessment districts is to assign the assessment function to the highest

level of government which imposes a property tax. In most states this is the state government; in over a dozen it is the counties; and in Rhode Island it is the towns and cities. The purpose of such an assignment would be to eliminate the disparities in assessment levels which result from the attempt of each local assessment district to reduce its share of the taxes imposed by higher levels of government. At present this purpose is supposed to be achieved by equalization boards in most states, but nowhere has it been fully achieved, and in several states the equalization process is the most unsatisfactory phase of property tax administration.<sup>20</sup>

A second approach to the problem is to assign the assessment function to that level of government which seems most likely to provide a good original assessment. It is possible that both approaches may result in the same selection of assessment districts, as, for example, in California, where the counties comprise the highest level of government imposing property taxes and the only level of local government embracing the whole area of the state. On the other hand, consider the situation in a state which is committed to a state property tax levy but whose state board of equalization has done a notoriously poor job of equalizing county assessments. The first approach suggests the advisability of transferring the assessment function to the state government; but the second approach may suggest the advisability of maintaining the status quo, since failure to do an acceptable job of equalization is perhaps indicative of inability to make an acceptable original assessment.

Which of these approaches is the more useful depends largely upon the tax levies of the several levels of government. If the state levy is very low, say one or two mills on the dollar, whereas county levies are ten times as high, *intra-county* uniformity is of much greater importance than *inter-county* uniformity, and a small amount of variation from the average

<sup>20</sup> Equalization is also required in many places in order to insure each local government its proper share of state-collected, locally shared taxes and grants-in-aid. This complicating factor is excluded from consideration in order to simplify the exposition.

assessment level *within* a county results in much greater inequality than a similar degree of variation *between* county assessment levels. Whether the state or the counties should perform the function, under the assumptions stated, depends, therefore, principally upon which of the two levels of government will produce the maximum *intra*-county uniformity.

It is no simple matter to decide which of several levels of government will do a better job of original assessment. For one thing, all local governments on a given level are not equally capable; and, even if they were, there is no simple way in which to test the capabilities of the different levels. However, there is some room for generalization. First, it must be remembered that once an assessment district is established it is likely to persist for many years; consequently, the level of government selected to do the assessing of property taxes should be one which is considered to have a long-run superiority over other available levels. Furthermore, it is possible to identify a number of characteristics which tend to make one government superior to another in the conduct of this particular function. The recommendation stated on page 48 and the next two succeeding recommendations set forth several of these characteristics.

The recommendation now under discussion states that a governmental unit which is selected as an assessment district should be one which performs other important functions and finances itself in large measure out of property taxes. The reasons why a government failing to qualify in these respects need not or should not serve as an assessment district may be summarized as follows:

1. A governmental unit which does not qualify in both of these respects can ordinarily levy its taxes upon the assessments of districts on a lower level without misplacing any substantial amount of taxes even if it fails to make an accurate inter-district equalization.

2. A government which does not depend heavily upon property taxes as a source of revenue is not likely to devote a great

deal of attention to property tax assessment and tends to appropriate insufficient funds for successful administration.

3. A governmental unit which performs relatively few functions often cannot afford auxiliary services of the type provided by central personnel agencies, central purchasing departments, legal departments, and the like, with the result that these activities would be neglected or inefficiently conducted by an assessing department.

4. A government which has few and relatively unimportant or uninteresting activities seldom attracts the public interest or earns the prestige necessary for the highest development of public administration.

Governments with large budgets supported in considerable measure by property tax receipts, on the other hand, not only have a relatively better opportunity to do a good assessing job, but they have a greater need to control the assessment process. The accuracy of their budgets will depend largely upon tax assessment and collection policies. It is perhaps obvious that assessment and collection functions ought to be assigned to the same government and that the policies which govern both, to the extent that they are not made a matter of state law, should be controlled by the level of government which is most affected by them.

**③. *The political subdivision serving as an assessment district should have sufficient resources to afford adequate assessment machinery, and should provide an assessment task large enough to realize the economies of large-scale operations and to warrant the employment of one full-time assessor and at least one full-time assistant.***

Probably the greatest single cause of inequitable property tax assessment, aside from the inherent elusiveness of property values, is inadequate financing of assessment departments. Meager salary appropriations usually result in incompetent personnel, part-time employment, and general understaffing of the office. Insufficient appropriations for equipment and supplies deprive the assessor of the essential tools of the trade



and force him to rely upon guesswork, the previous years' assessment rolls, and the notoriously inaccurate declarations of property owners. It is believed that no assessment department, however small the district in which it operates, should receive an appropriation of less than \$5000 and that governmental units which cannot or will not afford an appropriation at least this large should be relieved of the burden of financing this function and deprived of their status as assessment districts.

But part-time employment of assessors and the absence of technical and clerical assistance in assessment departments are only partially due to inadequate financial resources of assessment districts. To an even greater extent they are due to an assessment task which is so small that a single person can perform it within a period of a few weeks or months each year. This has two unfortunate results. First, it usually results in assessing officers of less than average competence because competent persons are seldom able or willing to leave their regular occupations to serve in this capacity unless the compensation is out of all proportion to the time so spent. Second, an officer who is at least supposed to be skilled in the technical aspects of assessment work is required to devote much of his time to clerical and stenographic duties, for which he may have little talent and for which he is almost certain to be excessively paid if he is at all qualified as an assessor. Consequently, it seems that the smallest department should consist of an assessor and a clerk, both working throughout the year.

Of course, a department of larger size affords opportunities for greater specialization of assessment personnel. This subject will be treated at greater length in Chapter IV. At this point it is sufficient to note that the subdivision of work among a number of specialized employees is one of the principal economies of large-scale operations both in private enterprise and in public administration. Another economy which is available only to large operating units is found in the use of machines. Machinery can seldom be profitably employed

where it is to be used for only a few hours or a few days a year as would be the case were it to be installed for the exclusive use of a small assessment department or even for the use of all departments of a small governmental unit.

All of the data which have been compiled on the cost of assessing property taxes support the conclusion that there are real economies in large-scale operations in this field. Thus a study of 71 New York towns revealed that the average cost of assessing per dollar of equalized valuation in towns having valuations of less than half a million dollars was over twice as great as in towns with valuations of between one and two millions, nearly three times as great as in towns of two to three millions, nearly four times as great as in towns of three to five millions, and over six times as great as in towns of more than five millions.<sup>21</sup> A study of per capita assessment expenses in California, Montana, Nevada, Oklahoma, and Wyoming counties reveals a similar tendency for unit costs to be lower in counties of large populations.<sup>22</sup> Thus, the average per capita costs in the thirteen California counties having an estimated population of less than 10,000 in the year to which the data pertain (1936) was two and one-third times as great as in the ten counties with estimated populations of more than 100,000; the average per capita cost in the 19 Montana counties of less than 5000<sup>23</sup> was two and one-half times as high as in the eight counties of over 15,000; the average per capita cost in

<sup>21</sup> H. M. Haag, *Governmental Costs and Taxes in Some Rural New York Towns*, Cornell University Agricultural Experiment Station, Ithaca, 1933, p. 36. For a similar study in another state, see R. G. Blakey and Associates, *Taxation in Minnesota*, Minnesota University Press, Minneapolis, 1932, p. 615.

<sup>22</sup> Per capita assessment costs were chosen in preference to costs per dollar of assessed valuation because of the danger that the latter will be invalidated by differences in assessment levels. The expenditure data used in this study will be found in the following sources: State Association of (California) County Assessors, *Progress Report of the Committee on Standardization of Assessment Procedure*, September 1936, p. 11; *Montana Taxpayer*, June 1940, p. 4; *The Nevada Tax Review*, October 1940, pp. 4-7; Oklahoma Tax Commission, *Financial Statistics of Local Governments in Oklahoma for the Fiscal Year Ending June 30, 1939*, pp. 50-51; Wyoming State Examiner, *Cost of Maintaining County Government in Wyoming for the year 1937* . . .

<sup>23</sup> There are 20 counties in this population group, but one was omitted because the assessor's office has been combined with another county office and cost data are not segregated between the two offices.

the four Nevada counties of less than 2000 was two and one-third times as high as in the five counties of over 5000; the average in the six Oklahoma counties of less than 10,000 was twice that for the seven counties of over 50,000; and the average for the five Wyoming counties of less than 5000 was over twice as high as for the five counties of over 15,000. The tendency for costs to decline with increasing population appeared in all of the states and under all possible groupings of counties.<sup>24</sup>

If a minimum acceptable size for assessment districts were to be selected on the basis of unit cost data alone, it would probably be set at a population of not less than 100,000 and an assessed valuation of not less than \$100,000,000, while an optimum size would perhaps be found at a population of around 300,000 and an assessed valuation of around \$300,000,000. However, these standards are met by so few existing assessment districts that they are somewhat visionary. Minimum standards of 10,000 population and \$10,000,000 assessed valuation certainly could not be criticized as too high. The previously specified minimum appropriation of \$5,000<sup>25</sup> to cover the cost of assessing in such a district would amount to fifty cents per capita and, assuming a 3 per cent over-all tax rate, would absorb 1.67 per cent of the tax levy and a little less than 2 per cent of tax collections.

<sup>24</sup> It has been suggested that low unit costs of assessing in counties of large population may be due to the fact that such counties are, as a rule, more highly urbanized than counties of small population. If this were true, the extension of the boundaries of a county would not necessarily reduce its unit assessment costs and might even increase them by bringing into the county more rural area. It was therefore necessary to run partial correlations of per capita assessment costs and populations, holding population density constant, and of per capita assessment costs and population densities, holding population constant. In three different states (California, Montana, and Nevada) it was found that there was a very small positive partial correlation between population densities and per capita costs, indicating a tendency for costs to go up with increasing urbanization; a somewhat larger negative partial correlation between populations and per capita costs; and a strong positive correlation (zero order) between populations and population densities. The study was not extended to the data for Oklahoma and Wyoming, there being no reason to think that the results for those states would qualify the conclusion that differences in population density do not materially affect the tendency for unit costs of assessing to decline as assessment districts are enlarged.

<sup>25</sup> See p. 52.

It should be emphasized, however, that the amount of money spent on the assessment function means little without a measure of quality. With 10 to 25 per cent of all property taxes commonly misplaced because of improper assessments, it is quite conceivable that the expenditures of an assessment department might be increased several fold without any increase in the taxes of those who are already paying their proper share of the total levy and with a substantial decrease for those who are paying more than their share. Thus the mere fact that small assessment districts tend to have higher unit costs of assessment than large districts is of major significance only if the quality of assessments tends to be as good or better in the large districts. Although conclusive statistical proof is lacking, we believe that such a tendency does exist, chiefly as the result of the opportunities which large districts have to economically employ technically trained, highly specialized, full-time staffs.<sup>26</sup>

**4. *The assessment district should not be so large that the flexibility required to adapt the assessment process to special cases is lost.***

It is theoretically possible, of course, for an assessment district to be too large as well as too small. Few would disagree, for example, that a property tax assessment district embracing the whole of the United States would be undesirable. On the other hand, there are a good many who think that the several states of the Union, the largest conceivable assessment districts under our present federal Constitution, would not be too

<sup>26</sup> A recent study of the Illinois Tax Commission afforded the interesting conclusion that Cook County, much the largest county in the state, had a more equitable assessment of urban property than any other county, "despite the tremendous variety of its real estate." (*Tax-Rate Limits and Assessment Ratios, 1925-1940*, p. 20.) Although this is interpreted by the Commission as "fairly conclusive evidence of how a scientific assessment system operates to produce greater uniformity of assessment," it may possibly be due in part to Cook County's opportunity to employ a relatively large, specialized staff of property appraisers. In a similar study of 1921 to 1926 assessment ratios, Dreesen found that Multnomah County, the one large county in Oregon, was at the upper quartile when the 36 counties of that state were ranked according to the degrees of equality obtained in the assessment of both urban and rural properties. (*A Study in the Ratios of Assessed Values to Sales Values of Real Property in Oregon*, Agricultural Experiment Station, Corvallis, 1928.)

large. The arguments for and against state assessment districts are set forth at some length in a subsequent chapter,<sup>27</sup> but it should be noted here that there is a real and understandable demand that property tax administration be kept "close to the people."

Much more than in the case of other taxes, the determination of the base of the property tax requires the exercise of a great deal of judgment. There are certain appraisal rules and procedures which can be standardized over a wide area, but they must be applied to facts which combine themselves into an infinite variety of patterns and which it is impossible fully to catalog or record. Most of these facts are available only in the vicinity of the property. Consequently, the public has always demanded that assessors be familiar with the property assigned them and accessible to its owners in a degree which is difficult to attain in districts of exceptionally large areas and populations. The principal danger, however, is not that this demand will be relaxed to the point that excessively large assessment districts are created, but rather that it will be allowed to create or perpetuate districts which are so small that assessments of unnecessarily poor quality are made at unnecessarily high unit costs.

***5. Where existing assessment districts do not meet these standards, the state should be redistricted by one or more of the following means:***

- a. *Two or more small governmental units which perform assessment functions may cooperate to form a single assessment district.*

This proposal contemplates consolidation of political subdivisions for assessment purposes only. It is theoretically the soundest procedure where existing governmental units provide acceptable administrative areas for most of their functions but are too small for property tax assessment purposes.<sup>28</sup>

<sup>27</sup> See pp. 106-8.

<sup>28</sup> See Conrad H. Hammer, "Functional Realignment vs. County Consolidation," *National Municipal Review* (1937) v. 26, pp. 515-18.

The fact that cooperation of this sort is usually voluntary in character effectively guarantees, however, that the reformation of assessment districts by this process will be slow. And, in addition to the psychological barrier, a legal barrier in the form of residence requirements must frequently be overcome before such a plan can be adopted.

b. *Two or more small governmental units which perform assessment functions may be consolidated to form a single governmental unit.*

This second proposal involves consolidation not only for assessment purposes but also for all other governmental purposes and therefore transcends the boundaries of taxation. It has been recommended for years by persons interested in improving local government, but with discouragingly little success. There have been a few county consolidations—James and Hamilton counties, Tennessee, in 1919, and Campbell, Milton, and Fulton counties, Georgia, in 1932—and a somewhat larger number of township and municipal consolidations. The results, though favorable, have not been sufficiently spectacular to overcome the resistance which meets each new proposal.<sup>29</sup> Nevertheless, this appears to be at once the most hopeful and the most satisfactory method of enlarging the numerous small county assessment districts which exist in several of our southern and western states and the small town districts in New England, where county government is of relatively little importance.

c. *The assessment function may be transferred to an existing governmental unit whose area includes that of two or more of the units now performing the function.*

The most obvious application of this proposal is the transfer of the assessment function from townships and municipalities to counties, long advocated in the Middle West and currently under consideration in Kansas, North Dakota, and

<sup>29</sup> See Arthur W. Bromage, *American County Government*, Dodd, Mead, & Co., New York, 1937, pp. 207-10.

Pennsylvania. Outside of New England, the counties of practically all states which now have the township assessment pattern qualify reasonably well in size and importance. It seems improbable, however, that this transfer will result in an outstanding improvement of assessment administration unless it is accompanied by some radical changes in county government organization. The changes which have already been made in several California and New York counties and which are being discussed in North Dakota are suggestive of what ought to be done elsewhere concurrently with the transfer of the assessment function from townships and municipalities to counties.

*d. The assessment function may be transferred from townships and small municipalities to their counties while large municipalities are separated from or consolidated with their counties.<sup>30</sup>*

Several writers have suggested that each large city be made a primary assessment district and that the remainder of its county serve as an additional primary district assessed by a county officer. Under such an arrangement, the district outside the city is not coterminous with the governmental unit performing the assessment function and is subject to the objections raised against the Pittsburgh-Allegheny County experiment previously described.<sup>31</sup> Also, there are instances in which the city embraces a large part of the county, leaving an area outside the city which is too small to serve effectively as an assessment district.

Yet there is great merit in the contention that a large city which dominates its county should control its own assessment. There are, however, alternative courses. Either the city limits may be extended to the county boundaries and the two governments consolidated, as in Denver and San Francisco, or the city may be separated from its county, as in Baltimore,

<sup>30</sup> As presented in the committee's official report, the words "or consolidated with" were inadvertently omitted from this recommendation.

<sup>31</sup> See p. 47.

St. Louis, and the 24 Virginia cities.<sup>32</sup> These alternatives are commended to the consideration of all large cities of, say, 100,000 and more inhabitants, or perhaps even of cities of 50,000 and over.

*e. An exceptionally large assessment district may decentralize its operations by establishing branch offices in charge of deputies to whom a large measure of authority and responsibility has been delegated by the assessor.*

As previously stated, we see little likelihood that property tax assessment districts will become too large either through increases in population density or through processes of annexation or redistricting. But the larger the district, the greater the need for a geographical pattern of internal organization,<sup>33</sup> branch offices, and deputy assessors who, within the areas to which they are assigned, exercise powers only a little short of those exercised by the assessor himself.

<sup>32</sup> For more detailed descriptions of the latter proposal, see William Anderson, *The Units of Government in the United States*, Public Administration Service, Chicago, 1934, p. 36; Illinois Tax Commission, *Sixteenth Annual Report, Assessment Year 1934*, pp. 206-11; Raymond B. Pinchbeck, "City-County Separation in Virginia," *National Municipal Review* (1940) v. 29, pp. 467-72.

<sup>33</sup> See pp. 126-31.



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## *Chapter II*

### **Overlapping Local Assessment Districts**

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OVERLAPPING assessment districts were described in the preceding chapter as government units authorized to establish assessing agencies and to list and appraise property for their own tax purposes (and occasionally for the tax purposes of school districts or other minor tax districts) despite the fact that the same property has been listed and appraised by the assessing agencies of primary districts. Typical examples of overlapping assessment districts are cities lying within county primary assessment districts, such as Louisville, Kentucky, which lies wholly within Jefferson County, and Atlanta, Georgia, which lies partly within Fulton County and partly within De Kalb County. Pennsylvania affords the exceptional examples of (1) an overlapping district which is coterminous with a primary district and (2) an overlapping district which is divided into several primary districts; here boroughs in counties below the third class are both overlapping and primary districts, while third-class cities in these counties are overlapping districts divided into city ward primary districts.<sup>1</sup>

Overlapping assessment districts are sometimes confused with what are known as overlapping tax districts. Wherever two or more governmental units with property taxing powers have jurisdiction over a single parcel of real property there is said to be an overlapping of tax districts. For example, prop-

<sup>1</sup> Bills now pending in the Pennsylvania legislature provide for the abolition of these city ward assessment districts.

erty within the corporate limits of Chicago is subject to taxation by the city, the Board of Education of the City of Chicago, Cook County, the Chicago Park District, the Sanitary District of Chicago, the Forest Preserve District of Cook County, and, in the event a state tax is again levied, the State of Illinois. Property tax districts in the United States number over 161,000;<sup>2</sup> but assessment districts, primary and overlapping, number 33,000. Practically all of these 33,000 assessment districts are also property tax districts; but the remaining 128,000 tax districts must levy on assessments established by some other governmental unit, just as the city of Chicago and all of the other tax districts enumerated above levy their taxes on the Cook County assessments.

#### CLASSIFICATION OF OVERLAPPING ASSESSMENT DISTRICTS

Overlapping assessment districts may be classified as mandatory or optional. A mandatory overlapping district is one which is required by the state constitution or statutes to make its own assessment, whereas the governing body or the electorate of an optional district may choose between making its own assessment and adopting the assessment of the primary district or districts within which it lies. Thus the cities of Florida, which are directed by their state constitution to "make their own assessments for municipal purposes upon the property within their limits,"<sup>3</sup> are mandatory overlapping assessment districts; and California cities, which may either make their own assessments or pay the county for making them, are optional overlapping assessment districts.

Overlapping assessment districts may also be classified as active or inactive. The most obvious case of inactivity is found where an optional overlapping assessment district enters into an agreement with its primary district under which the primary district extends the taxes of the overlapping district on its own rolls. If the assessor of the primary district supplies a

<sup>2</sup> Illinois Tax Commission, *Atlas of Taxing Units*, 1939, p. 5.

<sup>3</sup> Art. IX, sec. 5.

copy of relevant portions of his assessment roll for extension of taxes by the overlapping district, the overlapping district is still completely inactive as far as the assessment process itself is concerned. Nor is the situation materially altered when the overlapping district accepts responsibility for copying the primary assessment roll or copies it after making a uniform percentage increase or decrease in all of the primary district's valuations. In other words, an overlapping assessment district is said to be inactive when it relies upon the assessments of the primary district to the point where the taxes of both districts are spread in the same proportion over such properties as are legally taxable by both districts.

Of course active districts vary in vitality from those which copy most of their assessments from the rolls of their primary districts to those which pay no attention to such rolls. There are even instances in which the rolls of the overlapping district are copied by the assessor of the primary district, in which event the primary district is inactive within the area of the overlapping district.

As a general rule, mandatory overlapping assessment districts are active. However, the mandate seldom extends beyond the selection of an assessing officer and the preparation of a separate assessment roll, and both of these things may exist without necessarily bringing the district within the definition of activity set forth above.

#### ENUMERATION OF OVERLAPPING DISTRICTS

Fewer than half the states have overlapping assessment districts, and only one-fourth have what might be termed a large number of such districts. The exact number in all states is not known, for it sometimes depends upon special laws which have been neither codified nor fully analyzed for this purpose. It is estimated, however, that there are nearly 6400 overlapping assessment districts in all. The division of these 6400 into mandatory and optional districts and into active and inactive districts is even more problematical. A very rough

estimate places the mandatory districts at 1400 and the active districts at 3800, leaving 5000 optional districts and 2600 inactive districts. Table 4 shows the distribution of optional and mandatory overlapping assessment districts by states and by types of governmental units, and the notes on pages 366 to 369 contain such information as is available on the activity of these districts.

TABLE 4. NUMBER OF MANDATORY AND OPTIONAL OVERLAPPING LOCAL ASSESSMENT DISTRICTS, BY STATES AND TYPES OF GOVERNMENTAL UNITS, APRIL 1, 1940

	Municipalities		Other Districts		Total
	Mandatory	Optional	Mandatory	Optional	
Alabama .....	—	267	—	—	267
Arizona .....	—	4	—	—	4
California .....	—	283	94	114	491
Colorado .....	—	39	—	—	39
Connecticut .....	2	1	—	—	3
Delaware .....	45	5	—	—	50
Florida .....	272	—	—	—	272
Georgia .....	590	—	—	—	590
Kentucky .....	136	145	—	—	281
Michigan .....	—	309	—	—	309
Mississippi .....	—	295	—	—	295
Missouri .....	69	255	—	—	324
Nebraska .....	—	17	—	—	17
New Mexico .....	—	1	—	—	1
New York .....	—	612	—	—	612
North Carolina .....	10	—	—	—	10
Pennsylvania .....	35	743	—	—	778
Tennessee .....	106	42	—	—	148
Texas .....	—	628	27	1111	1766
Virginia .....	—	7	—	—	7
Washington .....	1	—	—	—	1
Wyoming .....	—	89	—	—	89
	1266	3742	121	1225	6354

Sources: State statutes; Bureau of the Census, *Sixteenth Census of the United States, 1940* (press releases, series P-2 and P-2a); and sources listed on pp. 366-69.

There appears to have been a tendency in recent years for overlapping assessment districts of the mandatory and active classes to decrease in number. The Maryland state legislature made all overlapping assessment districts optional in 1929 and abolished them entirely a decade later.<sup>4</sup> In Pennsylvania, the

<sup>4</sup> L. 1929, ch. 226, sec. 10 (c); L. 1939, ch. 387, sec. 8.

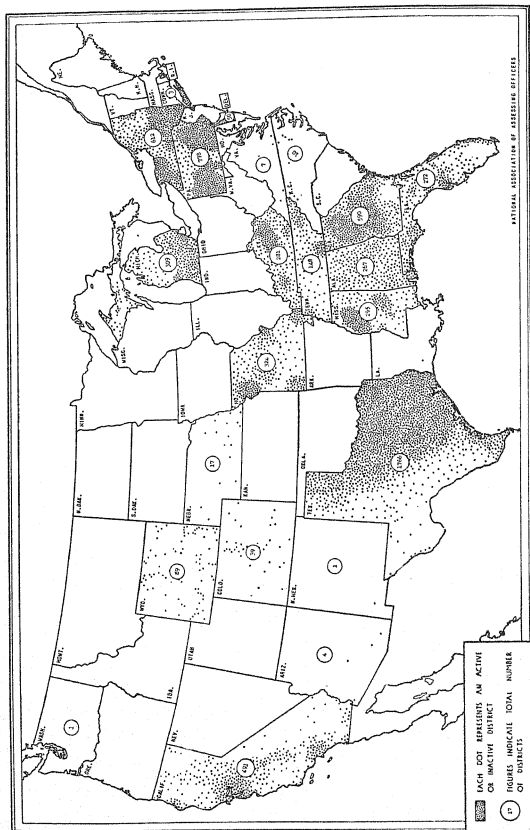


FIGURE 2. OVERLAPPING LOCAL ASSESSMENT DISTRICTS

city of Scranton was first made an optional assessment district in 1931 and was then deprived of assessment powers in 1935; third-class cities in third-class counties were changed from mandatory to optional assessment districts in 1931; and the city of Pittsburgh, under the terms of a 1939 act, will cease to be an assessment district on January 1, 1942.<sup>5</sup> A few special districts in Texas which had previously been in the mandatory class were authorized in 1939 to contract with their counties for the assessment and collection of their taxes.<sup>6</sup>

On the other hand, there have been several recent increases in the number of *optional* overlapping assessment districts as the result of (1) transfers from the category of mandatory districts, (2) new incorporations of municipalities in states where the policy of overlapping assessment districts is well established, and (3) a few newly adopted overlapping assessment district policies. The only important recent additions to the ranks of assessment districts resulting from the first of these causes were identified in the preceding paragraph, but increases of the second type have occurred in most of the states listed in Table 4. The principal increases of the third type are found in Pennsylvania, where a large number of boroughs were added to the list of overlapping assessment districts in 1929,<sup>7</sup> and in Virginia, where the only general law providing for overlapping assessment was enacted in 1930.<sup>8</sup> Many of these municipalities have not yet exercised their assessment powers, however, and the presumption is that most of them will remain permanently inactive.

#### POPULATIONS OF OVERLAPPING ASSESSMENT DISTRICTS

The concentration of overlapping assessment districts in the lower population brackets is almost as great as in the case of primary assessment districts. Population figures are lacking

<sup>5</sup> P. L. 1931, Act No. 204, Act No. 348, sec. 19; P. L. 1935, Act No. 39; P. L. 1939, Act No. 203.

<sup>6</sup> L. 1939, ch. 15.

<sup>7</sup> P. L. 1929, Act No. 354.

<sup>8</sup> Acts of 1930, ch. 259.

for the special districts of California and Texas, but the municipalities which have tax assessment powers are distributed into the various population groups in Table 5.

TABLE 5. DISTRIBUTION OF OVERLAPPING MUNICIPAL ASSESSMENT DISTRICTS BY POPULATION GROUPS, APRIL 1, 1940

Population	No. of Districts	Cumulative Total
1,000,000 and over.....	1	1
500,000 to 999,999.....	1	2
300,000 to 499,999.....	5	7
100,000 to 299,999.....	17	24
50,000 to 99,999.....	37	61
30,000 to 49,999.....	30	91
10,000 to 29,999.....	228	319
5,000 to 9,999.....	360	679
Under 5000 .....	4329	5008

Source: Bureau of the Census, *Sixteenth Census of the United States, 1940* (press releases, series P-2).

The largest municipality with overlapping assessment powers is Los Angeles, whose 1940 population was 1,504,277. The largest active overlapping assessment district is Pittsburgh, with a population of 671,659, and will be Kansas City, Missouri, with a population of 399,178, after the abolition of the Pittsburgh Board of Assessment on January 1, 1942.<sup>9</sup> A little less than 2 per cent of all overlapping municipal assessment districts have populations in excess of 30,000, and 86 per cent have populations of less than 5000. There are many such districts with fewer than 100 inhabitants, ranging down to a low of 3 in White Sulphur Springs, Georgia.

#### ASSESSMENT LEVELS IN OVERLAPPING DISTRICTS

Most overlapping assessment districts assess property at higher levels than their primary districts. The Bureau of the Census reported only 3 out of a total of 46 active overlapping districts of 30,000 to 100,000 population which assessed at a lower level than their primary assessment districts in 1931 and 3 out of a total of 19 overlapping districts of 100,000 or more population which assessed at a lower level than their primary

<sup>9</sup> Kansas City is not a particularly active assessment district, but neither is it completely inactive. The largest highly active overlapping assessment district in 1942 will be Houston, with a 1940 population of 384,514.

districts in 1937. (See Table 13, page 369.) Three other cities, all of which are in Missouri, assessed at exactly the same level as their primary districts. The 56 remaining overlapping assessment cities of over 30,000 had assessed valuations ranging from a fraction of 1 per cent to 461 per cent in excess of their primary districts' assessments of the same or substantially the same property. The 1940 equalization ratios established by the California State Board of Equalization indicate that only 4 cities in that state assess at a lower level than their counties, whereas 136 assess at a higher level, ranging up to a maximum excess of 175 per cent.<sup>10</sup> A recent study in Florida revealed that the total assessed valuation for 203 cities was nearly three times the county assessment on the same property.<sup>11</sup>

While the assessment of property at a level above that of their primary districts is typical of overlapping assessment districts, there are at least two states in which this situation is reversed. In the latest year for which information is available, 442 out of 611 New York villages are reported to have assessed at lower ratios than their towns;<sup>12</sup> and Michigan villages are said usually to assess below their townships.<sup>13</sup>

There are also at least two states in which assessment levels are almost always the same for overlapping and primary districts. Both instances may be explained by constitutional restrictions. The Alabama Constitution restricts tax rates in most municipalities to certain percentages of the value of the property situated therein "as assessed for state taxation during the preceding year,"<sup>14</sup> and the Missouri Constitution prohibits valuations for town, city, and school district tax purposes in excess of the valuation of the same property for state

<sup>10</sup> Letter from DeWitt W. Krueger, Chief of the Division of Research and Statistics, dated Nov. 22, 1940.

<sup>11</sup> Florida State Planning Board, *Municipal Government in Florida*, 1939, p. 120.

<sup>12</sup> Department of Taxation and Finance, *New York State Tax Bulletin*, May 1940.

<sup>13</sup> Letter from J. M. Leonard, Director of Research, The Detroit Bureau of Governmental Research, dated Oct. 22, 1937.

<sup>14</sup> Sec. 216. (See also Amendments VI and VIII.)



and county purposes.<sup>15</sup> Under these constitutions, the maximum municipal tax levy is obtained by adopting the county assessments and levying the highest constitutional tax rate; and the financial condition of many municipalities has forced them to make this maximum levy. Furthermore, the statutes of Missouri make the county assessor a member of the board of assessors for second-class cities,<sup>16</sup> and the assessors of third- and fourth-class cities are required to collaborate with their county or township assessors to the end that both assessments will conform.<sup>17</sup>

Although the assessment level of the typical overlapping district usually exceeds that of the primary district, it apparently does not exceed the level to which the assessor of the primary district is supposed to adhere. Thus in California, where both cities and counties are directed by law to assess at full value, the State Board of Equalization found in 1940 that the counties were all assessing at a 50-per-cent level and that only 7 cities were assessing at over 100 per cent. The aggregate assessments of the 203 Florida cities previously mentioned were estimated to be but 71 per cent of the full value of their taxable property although they were nearly three times as high as the "full value" assessments of the same property by county agencies. Similarly, where the primary district assesses above the overlapping district, the level is unlikely to be so high that it exceeds the statutory standard. The New York State Tax Commission reports no assessment ratios exceeding 100 per cent in that state even though town assessments customarily exceed those of their villages.<sup>18</sup> These data simply indicate that there is strong popular and legal resistance to general overassessment—or at least to official acknowledgement of general overassessment—and very little resistance to underassessment.

<sup>15</sup> Art. X, sec. 11.

<sup>16</sup> *Revised Statutes*, sec. 6589.

<sup>17</sup> *Ibid.*, secs. 6779, 6994. Technically this makes third- and fourth-class cities primary assessment districts, served by two-member boards of assessors, rather than overlapping assessment districts.

<sup>18</sup> *New York State Tax Bulletin*, May 1940.

## THE CASE FOR OVERLAPPING ASSESSMENT DISTRICTS

The literature on overlapping assessment districts is confined almost exclusively to their condemnation. However, it is obvious that an institution found in nearly half of the states must have some reason for existence. Inquiries directed to students of government and public officials in these states disclosed seven different reasons. These may be summarized as follows:

1. If tax levies and the public debt are limited to certain percentages of assessed valuations, each governmental unit finds some advantage in controlling its own assessment. Such control is most obviously useful as a means of escaping the rigors of a stringent limitation, but it can also be used by the administration to curb appropriations and the authorization of bond issues by the legislative body.

2. Overlapping assessment districts often have the opportunity to make a more equitable assessment than would be provided them by their primary districts. Although the overlapping assessment is ordinarily used only as the basis for municipal taxes, these are likely to comprise the major portion of the tax burden within the overlapping district.

3. Overlapping assessment districts constitute an expression of political independence which has been fostered by the proponents of home rule in its more extreme aspects.

4. Low tax rates are frequently used to attract industries and wealthy residents. They are also used by incumbent administrations as evidence of faithful stewardship. But control of the tax rate depends to some extent upon control of the assessment since the two tend to vary inversely.

5. Control over assessments can be used to punish political opponents and to dispense political favors; it can also be used to subsidize corporations and individuals who have been induced to locate in a community or to remain there.

6. Municipalities and special tax districts occasionally lie in two different primary assessment districts. If no adequate

machinery for equalizing the assessments of primary districts exists or can be created, such a municipality or special district should assess its own property taxes.

7. A few municipalities which now serve as overlapping assessment districts were chartered before their county assessment agencies existed. These municipalities were given assessment powers which were not subsequently withdrawn.

Once an overlapping assessment district has been created, whether for a good reason or a poor one, there is strong resistance to its abolition. Vested interests in public offices and in certain assessment policies which will be abandoned or altered if all taxes are to be based upon the assessments of primary districts combine with general public inertia to perpetuate the status quo. Nevertheless, as previously noted, there is a tendency for active overlapping assessment districts to decrease in number. It is therefore appropriate to examine the validity of the reasons for creating such districts and to inquire whether legislation providing for their abolition should satisfy in some other manner the need which originally gave rise to them.

### *Debt and tax limitations*

No other single thing has contributed more to the creation of overlapping assessment districts, or at least to their perpetuation as active overlapping districts, than municipal tax and debt limits based upon assessed valuations. If municipalities so limited were suddenly deprived of their assessment powers, many of them would be forced to reduce their tax levies by large amounts. At the same time, they might find themselves unable to borrow further money because their existing indebtedness exceeded their new debt limit. The drastic curtailment of municipal services, the slashing of public payrolls, and the disruption of capital improvement programs which would result from these two things would be welcomed only by the most violent critics of municipal government. On the other hand, a few municipalities would find

their tax levying and debt incurring powers expanded, and this would be denounced as an invitation to extravagance by many of the unofficial guardians of the public purse strings.

It is difficult to see how overlapping assessments can be abolished in many states without causing some sharp increases or decreases in tax levying or borrowing powers. However, there are several possibilities which might be explored.

First, there is the possibility of establishing tax and debt limits which are independent of assessed valuations. For example, a debt limit based upon certain municipal revenues has been recommended by some,<sup>19</sup> while a limitation on aggregate tax *levies* rather than on tax *rates* not only has been recommended but has been widely adopted.<sup>20</sup> The advocates of these limitations argue that assessed valuations provide a base which is subject to manipulation over a wide range and is defective in certain other respects.

If no radical departure from existing debt and tax limitations is feasible, there is the second possibility of making appropriate adjustments of the present limitations. Suppose, for example, that cities are allowed to incur debts up to 5 per cent and levy taxes up to 2 per cent of their assessed valuations, while counties may incur debts up to 4 per cent and levy taxes up to 1.5 per cent of their assessed valuations. With a full valuation of property this would probably give the counties a substantial unused balance of borrowing and taxing powers. Consequently, there may be little resistance to a lowering of the county assessment level to 50 per cent of full value, thereby cutting the effective debt and tax rate limits in half. But this will doubtless place many cities in a difficult financial situation if they lack the right to make their own assessments. The obvious solution is to balance the debt-incurring and taxing powers of the several types of local governments so nicely

<sup>19</sup> *Report of the Connecticut Special Tax Commission of 1933*, Hartford, 1934, pp. 214-15, 230; B. U. Ratchford, "A Formula for Limiting State and Local Debts," *Quarterly Journal of Economics* (1936) v. 51, pp. 71-89.

<sup>20</sup> See Wiley Kilpatrick, "A Western Chapter in Expenditure Control," *Bulletin of the National Tax Association* (1937) v. 22, pp. 144-51.

that each type will press equally against a given assessment level. In the example given, this would call for a reduction of the county limits, say to 2 per cent for debts and 0.75 per cent for taxes. Or, since cities and counties vary widely within a single state, it may suggest the need for over-all debt and tax rate limits to be divided among the county, the city, and other local tax districts by a county budget board, much as over-all tax limits are now allocated in Indiana, Michigan, Ohio, and Oklahoma.

Finally, if the debt and tax rate limits are to remain completely unchanged, a solution may be sought in an attack upon the practice of systematic undervaluation by assessors of primary districts. Several weapons may be employed in this attack. The abandonment of state property tax levies, which are spread upon the assessments of primary and not overlapping districts, has proved only partially effective.<sup>21</sup> The distribution of state grants-in-aid and state-collected taxes according to assessed valuations should prove effective, but may cost more than it is worth. Making state grants conditional upon full valuation has been suggested<sup>22</sup> but appears politically impracticable. Probably the most effective program would involve closer state supervision and better state equalization, with the provision that the equalized valuation shall constitute the basis for computing local debt and tax rate limits.

### *The quality of primary assessments*

The fact that the assessors of overlapping districts frequently spread taxes more equitably than the assessors of their primary districts, if not one of the principal reasons for creating overlapping districts, is at least one of the best reasons for retaining them. Municipal governments, by and large,

<sup>21</sup> James W. Martin and C. M. Stephenson, "Aspects of the Movement Toward Separation of the Sources of State and Local Revenues," *The Tax Magazine* (1933) v. 11, pp. 61-64, 79-81.

<sup>22</sup> Chester B. Pond, *Full Value Real Estate Assessment as a Prerequisite to State Aid in New York*, New York State Tax Commission, Albany, 1931.

are better organized and better staffed than other local units. The principal advances in local government administration, such as central purchasing, central budgeting, and the merit system of employment, have originated in the cities. While other cities have been quick to recognize and adopt such improvements, the counties and townships have either resisted changes or have lacked the authority to make them. As a result there have been advances in administrative practices in some overlapping assessment districts which have been unmatched by their primary districts.

A further objection to the relinquishment of assessment powers by cities to their counties is that county governments are frequently controlled by rural representatives who are unsympathetic to the needs of an urban community. Such a condition may result in an assessment which, though accurate enough to meet the demands of rural districts with low tax rates and homogeneous properties, is intolerable to those owning properties within a high-rate urban district. This again is largely a problem of the general structure of government, and one which should be faced in any reorganization program.

There are two ways in which the problem of unsatisfactory primary assessments in urban areas can be met without creating an overlapping assessment district. The first involves a direct attack upon the causes of inadequacy, having as its objective the improvement of assessment organization, personnel, and administration in primary districts. The second is based on the assumption that existing primary assessment districts will always be unable or unwilling to provide acceptable bases for municipal taxes; it involves restriction of the jurisdiction of existing primary assessment districts to areas outside existing overlapping districts and the transformation of existing overlapping assessment districts into primary districts.

The first of these two procedures is recommended in all instances. If it is politically or economically unfeasible, the second procedure may occasionally be preferable to the main-

tenance of overlapping districts. But this second procedure is seldom attractive. Most municipalities are too small to serve acceptably as primary districts. And if the municipality itself is large enough to make a good primary district, there is the danger that the rural area of the county, when separated from the urban area, will make an inadequate assessment district. Furthermore, this procedure ordinarily creates a new equalization problem, since the county then spreads its taxes over an area assessed partly by the county assessor and partly by the city assessor. The latter problem can be avoided only by completely divorcing the city from its county, as has been done in Baltimore, St. Louis, and throughout Virginia.<sup>23</sup>

### *Home rule*

The committee subscribes freely to the general principle of home rule—that matters of purely local concern should be subject to local control without interference by a state legislature. Obviously, the *primary* assessment function does not come within the scope of home rule, as so defined. The rolls of a primary district, either before or after equalization, almost invariably serve as the basis for the apportionment of taxes of other governmental units; and they frequently determine, or assist in determining, the proportion in which state grants-in-aid and state-collected, locally shared taxes are distributed to local governments. But the rolls of an overlapping assessment district almost never serve such purposes. They are ordinarily used only in the spreading of city taxes.

Viewed from a purely legalistic angle, it is difficult to say whether the power to assess property taxes is a home-rule power. There are 16 states in which cities have the constitutional right of home rule.<sup>24</sup> Five of these have made all home-rule cities primary assessment districts, not because they are home-rule cities but because this happens to fit into their

<sup>23</sup> See p. 40.

<sup>24</sup> The Pennsylvania and Utah constitutions direct the legislature to frame home-rule legislation, but none has yet been enacted. These states are not included among the 16 mentioned in the text.

primary districting scheme.<sup>25</sup> Three others have made all cities overlapping assessment districts, whether or not they enjoy home rule.<sup>26</sup> Thus there are only eight states in which the question whether home rule involves the right to make overlapping assessments seems likely to have been raised. Three of these have answered the question in their constitutions, two by denying this right,<sup>27</sup> one by affirming it.<sup>28</sup> The five remaining home-rule states<sup>29</sup> have left the decision to their courts, three of which have apparently answered in the negative<sup>30</sup> and another in the affirmative.<sup>31</sup>

<sup>25</sup> These states are Maryland, Michigan, Minnesota, New York, and Wisconsin. In Maryland, only one city (Baltimore) enjoys constitutional home rule, and it is now the only city serving as an assessment district. Both cities and villages enjoy home rule in Michigan and Wisconsin; and the villages, too, are primary assessment districts in the latter state. With respect to its villages, Michigan falls into the group of states listed in footnote 26.

<sup>26</sup> The states in this group are California, Missouri, and Texas. See also the reference to Michigan villages in footnote 25.

<sup>27</sup> The Ohio Constitution (Art. XIII, sec. 6) directs the legislature to restrict the taxation, assessment, and borrowing power of municipalities. The West Virginia legislature may authorize municipalities to assess and collect taxes for corporate purposes, and thus, by implication, may withhold such authority (Art. X, sec. 9).

<sup>28</sup> Colorado (Art. XX, sec. 6g).

<sup>29</sup> Arizona, Nebraska, Oklahoma, Oregon, and Washington.

<sup>30</sup> Oklahoma, Oregon, and Washington. In the Oklahoma case (*City of Sapulpa v. Land* (1924) 101 Okla. 22, 223 Pac. 640), which involved the right of a city to alter the tax collection procedure prescribed by the state legislature, the State Supreme Court said, "It is . . . our conclusion that taxes in this state must be assessed and collected pursuant to and under the authority of general laws enacted by the legislature." The Oregon case (*Portland v. Portland Railway, Light & Power Co.* (1916) 80 Ore. 271, 156 Pac. 1058) arose out of the attempt of the city of Portland to assess a franchise tax on a local utility company. In the course of the opinion, the court said: ". . . the legislature has specified what property shall be assessed and has also designated the officers who alone can and must perform the duty of listing and assessing property. The city must make its levy on the assessment roll prepared for the county, and all taxes levied on property are confined to that assessment roll." The Washington case (*State ex rel. Seattle v. Carson* (1893) 6 Wash. 250, 33 Pac. 428) involved a mandamus action against the comptroller of Seattle. The petitioner sought to force compliance with the city charter provisions for a separate city assessment whereas the general law provided for the basing of city taxes on county assessments. The decision did not turn entirely on the question of home rule, but the court implied that the home-rule principle was not violated as long as the city was free to levy its own taxes.

<sup>31</sup> *Eppley Hotels Co. v. City of Lincoln* (1937) 133 Nebr. 550, 276 N. W. 196; certiorari denied (1938) 304 U. S. 576. This case involved questions of tax rates and the manner of selecting an assessor. The court said that "city taxes, to be used strictly for city purposes, are a matter of municipal concern and in no way concern the state in their subject-matter nor in the way they were assessed and levied in the case at bar."



Whether or not municipal home rule *should* include the right to assess municipal taxes is a moot point. This is an activity which, if not a matter of purely local concern, is well within the broad twilight zone separating matters of purely local concern from matters of purely state concern. There are only two important respects in which one locality has an interest in the assessment of another locality's taxes: (1) Over-assessment may impair the credit rating of one governmental unit and indirectly of other governmental units which are associated with it in the minds of investors; (2) promises of underassessment of particular properties may be used to attract migratory industries and residents from one community to another. Whether these two points are sufficient reason for denying home rule on assessments will perhaps depend upon whether there is home rule on the levying of taxes. If municipalities are free to set their own tax rates or levies, their home-rule prerogatives are usually not materially infringed by denying them the additional right to make their own assessments.

#### *Favorable tax rates*

Many municipalities strive constantly to maintain a low tax rate. This, it is thought, will reflect credit upon the administration and will attract industries and wealthy residents to the community. However, if the low rate results from high assessed valuations, it means something quite different from a low rate resulting from small expenditures. The creation of an overlapping assessment district actually tends to raise the tax rate relative to the true value of property, since it increases expenditures in some measure by adding a new government function. While this increased cost may be justified in some cases by an improved assessment, it follows that the maintenance of a low municipal tax rate is not itself an adequate justification for overlapping assessment districts.

The last three reasons for the creation or maintenance of overlapping assessment districts, listed on pages 69 and 70, are

of minor importance, and other means of achieving the same ends are fairly obvious.

### THE CASE AGAINST OVERLAPPING ASSESSMENT DISTRICTS

Many states contain only primary assessment districts, and a still larger number contain no *active* overlapping assessment districts. There has been practically no articulate demand in these states for overlapping assessments. On the other hand, special survey commissions and other investigators in states with active overlapping assessment districts have frequently recommended their abolition.<sup>32</sup> The various arguments which have been advanced by the "abolitionists" may be summarized as follows:

1. Overlapping assessment subjects the taxpayer to the annoyance of double visitations, double listing of property, and the necessity of defending his interests before two independent assessing agencies and two independent reviewing agencies.
2. Overlapping assessment practically precludes centralization of the property tax collection function in a county agency and thus contributes to the annoyance of taxpayers who must pay taxes to two different agencies and to purchasers of real estate who must search the records of two agencies to discover unpaid taxes secured by lien upon the property.
3. A piece of property is usually assessed at different figures by the primary and overlapping assessment districts, either

<sup>32</sup> Assembly Interim Committee on Assessments and Appraisals of Real Property (Calif.), *Report*, 1937, p. 24; California Tax Research Bureau, *Report*, Jan. 23, 1933, p. 116; Governor's Advisory Commission, *County Government and Taxation in Delaware*, Dec. 23, 1932, p. 10; The Efficiency Commission of Kentucky, *The Government of Kentucky*, 1924, v. 1, p. 257; L. B. Miller, *Local Finance and Procedure, A Report to the (Michigan) Commission of Inquiry into County, Township and School District Government*, 1933, p. 39; New York State Commission for the Revision of the Tax Laws, *Report*, Feb. 15, 1932, Memorandum No. 3, p. 25, *Sixth Report*, Feb. 6, 1935, p. 242; West Virginia State Tax Commission of 1901-02, *Preliminary and Final Report*, 1902, pp. 25-26. A recommendation for the abolition of inactive overlapping assessment districts was made by Griffenhagen and Associates in their *Report Made to the (Wyoming) Legislative Committee on Organization and Revenue*, 1933, v. 1, p. 501. The Consultant Service of the National Municipal League, on the other hand, recommended the continuance of overlapping assessments in a report entitled *The Governments of Atlanta and Fulton County, Georgia*, 1938, v. 1, p. 107.

because of differences in judgment or because of differences in policy. This results in loss of confidence in the assessors' work and unjustified complaints against assessed valuations.

4. Where the assessors of the primary and overlapping districts work together and list property at identical figures, there is a diffusion of responsibility similar to that which exists where assessments are made by a two-member board.

5. When the overlapping assessment is on a higher level than the primary assessment, there is a tendency for the primary assessment level to be higher within the overlapping district than elsewhere.<sup>33</sup>

6. When public utilities or other properties are assessed by the state tax department but are subject to taxation at local rates by both primary and overlapping assessment districts, the state tax department is usually required to compute equalization ratios for both primary and overlapping districts and is thus faced with a larger task than a similar agency in a state having no overlapping districts.

7. Overlapping assessment districts involve duplication of effort and added expense which could better be devoted to a single assessment or avoided completely.

### *Annoyance of taxpayers*

The annoyance, inconvenience, and expense to property owners which result from the duplication of assessment machinery are readily apparent. First the taxpayer must file two different lists of his taxable property, following, in all probability, two different sets of instructions and regulations. Then he may be subjected to double visitations and be required to submit to examination by two different assessors. When the original assessment process is completed, he will probably have to inspect two different sets of assessment records to discover the amounts for which he is assessed. If he believes that he has been discriminated against, he may have to protest the assessment before two assessors, appeal to two different local

<sup>33</sup> California State Tax Commission of 1917, *Report*, p. 73.

boards of review, and perhaps carry both appeals to higher administrative or judicial review agencies. The whole process may be further complicated by differences in tax calendars, making it difficult to remember all of the dates upon which particular action must be taken and impossible to save time by transacting business with the two assessment agencies in quick succession.

But the annoyance is not over with the completion of the assessment process. Usually overlapping assessment is but a prelude to decentralized collection of taxes. This means that each taxpayer receives one bill for his municipal taxes and another for the taxes which he owes other levels of government. One of the worst features of this is that either or both bills may be left unpaid with the result that the work of searching for tax liens by prospective purchasers of the property is approximately doubled.

### *Diffusion of responsibility*

To a casual observer, it might appear that two assessors are always better than one and that this should lead to more equitable assessment within an area assessed by a primary district and again by an overlapping district. Property which was omitted by one assessor would be brought to his attention by the other assessor; and appraisals would tend to reflect the combined judgment of two persons rather than the judgment of a single assessor. In practice, these benefits are seldom realized. More often than not, it appears, one assessor either relies completely upon the work of his colleague, or the two assessors operate so independently that the work of one is of little benefit to the other.

An unfortunate division of responsibility arises when the assessors of primary and overlapping districts work together, either by means of actual collaboration or by means of roll copying. Under these circumstances, valuations on the two rolls may be expected to agree or to bear some uniform relationship to each other. This agreement or established rela-

tionship may be adduced as evidence of the validity of the rolls, although it may actually evidence the copying of one of the two rolls. Where the agreement arises from actual collaboration of the two assessors, it is of more significance; but under these circumstances the overlapping district is, in effect, assessed by a two-member board, with at least some of the diffusion of responsibility and other disadvantages accompanying administration by a multiple-headed agency.<sup>34</sup>

Independent action by the two assessing agencies is even less satisfactory. No two persons, however skilled, can be expected to place identical valuations upon a piece of property. Furthermore, the assessor of the overlapping district, who is seldom subject to supervision by the state tax department, may endeavor to encourage new construction or the migration of industries by policies which the assessor of the primary district is unable to pursue. The assessor of the primary district, in turn, may adopt a policy of fractional assessment which is denied the assessor of the overlapping district because of the financial circumstances of his district. Whatever the cause, each discrepancy in the two assessments of a single piece of property helps to destroy confidence in the assessment process. Complaints are inevitable and are often rewarded at the expense of those who fail to make equally justifiable complaints.

### *Equalization problems*

The use of different assessment levels by an overlapping assessment district and its primary district is almost universal outside Alabama and Missouri. This typical situation gives rise to two equalization problems.<sup>35</sup>

The first of these problems may be illustrated by a city whose assessor has adopted a policy of full-value assessment, lying within a county whose assessor aims at a somewhat lower level,

<sup>34</sup> See pp. 146-48.

<sup>35</sup> Note, however, that overlapping assessment districts are occasionally used to eliminate an equalization problem where the overlapping district lies in more than one primary district.

say 50 per cent. While the county assessor may achieve this level in that part of his district lying outside the city, he is encouraged to strike a somewhat higher level, say 60 per cent, within the city. Owners of property within the city are not likely to protest such an assessment, since it is still far below the overlapping assessment, yet it results in a considerable amount of misplaced county and state taxes. This tendency toward disparity in county assessments might be even more pronounced if the city assessor claimed to be assessing at one level and actually assessed at some other level. It is unlikely that it would be completely remedied by action of the county equalization board.

The second problem is one of equalizing state-assessed property with locally assessed property. Most of the states with overlapping assessment districts have provided for state assessment of some or all public utility properties and for certification of the assessment back to local officials for inclusion in the general property tax rolls. The existence of overlapping assessment districts in such a state means an added burden upon the state assessing agency, since it is proper, although not always required, to compute the certified valuations at that fraction of full value which obtains in the local assessment of other property. If, for example, a county primary district assesses at 50 per cent of full value and a city overlapping assessment district at 75 per cent, the state assessing agency ought to certify a thousand dollars' worth of property at \$500 to the county and \$750 to the city.

The amount of work thus imposed upon the state assessing agency will depend somewhat upon the method of equalization which is adopted. If the procedure involves the collection of sample assessment ratios,<sup>36</sup> the appraised values or sales prices of properties lying within overlapping districts must be compared with two assessed valuations—that of the primary district and that of the overlapping district—instead of one, and the sample may need to be enlarged to yield reliable re-

<sup>36</sup> See p. 307.

sults. Except for the possible enlargement of the sample, the increased work is clerical in nature and not particularly time consuming. If, however, the equalization is made impressionistically,<sup>37</sup> the work involved depends quite heavily upon the number of assessment districts, which, of course, is greater with overlapping and primary districts than with the existing primary districts alone.

### *Increased assessment costs*

The contention that overlapping assessment districts simply duplicate the work of primary districts at considerable added expense is perhaps the most appealing argument for their abolition. Such data as are available on assessment expenditures suggest, however, that the case against overlapping districts should not rest on this point alone. It is estimated roughly that all overlapping districts in the United States spend only about three million dollars a year on the assessment function.<sup>38</sup> And against this there should be offset some reduction in the expenditures of primary assessment districts resulting from the availability of the assessment records of overlapping districts and the absorption by overlapping districts of certain clerical expenses.

In return for this expenditure, some municipalities obtain a more equitable assessment roll by reason of doing their own assessing. Of course other municipalities, whose expenditures permit little more than the copying of the assessment roll

<sup>37</sup> See p. 306.

<sup>38</sup> This estimate is based largely upon data collected by the Bureau of the Census from cities with populations of 30,000 and over. In 1937, the 19 active overlapping city assessment districts of 100,000 and over reported expenditures of \$1,391,610 on "assessment and levy of revenue." (*Financial Statistics of Cities, 1937*, Table 12.) But county expenditures on this function, which were included for cities of 300,000 and over, amounted to \$639,264, leaving \$752,346 for the cities alone. (Letter from C. E. Rightor, Chief Statistician, Division of State and Local Government, dated March 8, 1941.) The 46 overlapping city assessment districts of 30,000 to 100,000 population reported expenditures of \$436,118 on this function in 1931, the latest year for which the data have been compiled. This brings the total to \$1,188,464 for all cities of 30,000 and over. It seems unlikely that the remaining active assessment districts spend, in the aggregate, more than \$2,000,000 on assessment of property taxes.

by clerical workers or by an ex-officio assessor, get nothing more than an unnecessary duplication of the work done by county and township officers. In fact, a large part of the cost of assessing in all districts is accounted for by expenditures for clerical services, equipment, and office space; and, while these expenses may seem light enough in the aggregate, it is obvious that the funds involved could be spent to much better advantage on the improvement of the work of primary assessment agencies than on duplication of effort by overlapping districts.

### RECOMMENDATIONS

***1. Overlapping assessment districts which are now required to do their own assessing should be permitted to use the assessment machinery of their primary districts.***

It is the committee's conclusion that overlapping assessment districts have no place in a well organized assessment system. Most of the legitimate reasons for their existence would disappear with good organization and personnel in primary assessment districts, supplemented by adequate state equalization and possibly by minor changes in the laws governing the incurrence of public debt and the levying of taxes. Until these things are corrected, municipalities which now exercise overlapping assessment powers should not be deprived of this authority; but it is recommended that all mandatory overlapping assessment districts be made optional districts. There is no good reason why any overlapping district should be denied the use of the assessment machinery of its primary district, however good the reasons for allowing it to maintain its own machinery if it so chooses.

The change from mandatory overlapping assessment districts to optional districts is a relatively simple one. While it can be made by allowing a municipal employee to copy appropriate portions of the primary assessment rolls or to purchase a copy from the primary district, it is preferable to dispense with the separate roll. If the latter course were fol-



lowed, the assessor of the primary district would be required to segregate property subject to municipal taxation from the other property on his rolls;<sup>39</sup> he or some other officer of the primary district would be required to extend the municipal taxes on the tax rolls; and the tax collector of the primary district would perform the collection function for all levels of government. The overlapping assessment district may or may not be required to pay the primary district for these services. It would not be improper for the state legislature to require the county to perform the service without charge, provided the county tax machinery were made available to all cities in the county.

***2. Tax rate and debt limitations in all states having overlapping assessment districts should be carefully studied by the legislature with the purpose of substituting different types of limitation or creating a proper balance between the limitations on primary and overlapping districts so that both can operate equally well with a single assessment.***

Merely giving overlapping districts the opportunity to become inactive will not greatly alter the present situation, for there are now relatively few mandatory districts. In all states with active optional overlapping assessment districts there is need for an examination of the reasons for exercise of the option and the institution of a program for removal of the causes. In particular, debt and tax rate limitations should be studied to see whether some new type of limitation is required or whether there should be readjustment of existing limitations so that the two governments will exert more nearly equal pressure on the limitations when both are using the primary assessment. The success with which this problem is handled will largely determine the extent to which optional assessment districts become inactive districts.

<sup>39</sup> Where listing of real property in geographical order is now required, this segregation is relatively simple; elsewhere it would be desirable to introduce geographical listing upon shifting from mandatory to optional overlapping districts.

**3. Primary assessment districts should be encouraged to assess at full value by the reduction of state levies, the distribution of state funds according to assessed valuations, the improvement of state equalization methods, or other appropriate measures.**

If some revision of tax and debt limitations is unobtainable, the alternative is to raise the assessment level in primary districts. Very few overlapping assessment districts, it appears, are now operating on assessment levels above those prescribed by law for their primary districts, and it follows that they would be able to operate without making their own assessments if the assessors of their primary districts adopted the legal standard. The principal available means of inducing assessors of primary districts to do this are suggested above.

The adoption of a policy of full-value listing by assessors of primary districts would also encourage inactivity on the part of optional overlapping districts by improving the quality of the primary assessments. It is a well-known fact that a greater degree of uniformity tends to accompany an increase in the assessment standard—at least up to the point at which the legal assessment standard is reached—since persons who are overassessed relative to the *legal* standard are very likely to get their assessments reduced whereas persons who are overassessed relative to the average assessment level but not relative to the legal standard are unlikely to complain or to get redress if they do complain.<sup>40</sup>

Anything else which can be done to improve the uniformity of assessments, regardless of the level at which this uniformity is effected, will also help to reduce the number of active overlapping assessment districts. Most of the recommendations in the following chapters are therefore pertinent to the solution of the problem to which this chapter has been devoted.

<sup>40</sup> See National Association of Assessing Officers, Committee on Principles of Assessment Practice, *Assessment Principles*, Chicago, 1937, pp. 35-36; Kentucky Department of Revenue, *Assessment of Real Property in Kentucky Counties*, 1939, pp. 14-15; W. H. Dreesen, *A Study in the Ratios of Assessed Value to Sales Value of Real Property in Oregon*, Agricultural Experiment Station, Corvallis, 1928, p. 43.

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## Chapter III

### State Assessment Districts

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THE TWO PRECEDING chapters have included a description and appraisal of the most numerous, and in some respects the most important, property tax assessment districts. However, the state itself almost invariably serves as the assessment district for some types of property. The present chapter describes the extent to which this situation now exists and seeks to develop principles by which to determine under what conditions it should exist.<sup>1</sup>

#### PUBLIC UTILITY PROPERTIES

The first large class of property to be withdrawn from the jurisdiction of local assessors and placed within the jurisdiction of a state assessing agency consisted of property used in public utility enterprises. The withdrawal is undoubtedly attributable, in the main, to the fact that many public service enterprises operate in two or more local assessment districts, which creates various problems of appraisal and presents unusual opportunities and incentives to demonstrate interdistrict inequalities.

<sup>1</sup> We have previously noted (p. 36) certain counties which perform the assessment function but which are not considered to be assessment districts. Similarly, it is possible for the state to perform the assessment function through an organization which involves local assessment districts. In practice, however, we know of no important instance of such an organization. Consequently, throughout this and subsequent chapters, we will assume that state assessment is always carried on without decentralization of the administrative machinery to the point at which local assessment districts would be created (or retained after transfer of the function from local governments to the state government).

It is difficult to find two states which have adopted identical policies with respect to the assessment of the property owned by public service corporations. Even within a particular state there is seldom a single policy applicable to all such corporations; instead it is commonly found that there is one policy for railroads, another for telephone and telegraph companies, and still a third, say, for electric companies, each involving a different division of assessment responsibilities between state and local agencies. This diversity makes it exceedingly difficult to generalize accurately concerning any phase of public utility taxation.

After studying laws governing the assessment of seven types of public service corporations,<sup>2</sup> the committee has identified six typical patterns according to which responsibility is divided between state and local assessing agencies.

1. All property owned by a company engaged in a particular type of public service enterprise is assigned to a state assessment agency, or, conversely, all is assigned to local assessment agencies. For example, all property owned by an express company in California is state-assessed, while all property owned by such a company in Texas is locally assessed. *Ownership* is the criterion determining the assessing agency.

2. Operating property is state-assessed and nonoperating property is locally assessed. Thus the rolling stock, right-of-way, road bed, terminal facilities, and similar property of a railroad in North Dakota are state-assessed; but its land grants and any store, hotel, or similar buildings which it may own are locally assessed. *Use* is the criterion determining the assessing agency.

3. Inter-district utilities are state-assessed and intra-district utilities are locally assessed. For example, in Utah, a power company operating in more than one county is assessed by the State Tax Commission, and one which operates wholly within a single county is assessed by the county assessor. *Location* is the criterion determining the assessing agency.

<sup>2</sup> Railroad, express, telegraph, telephone, water, gas, and electric companies.

4. Personal property is state-assessed and real property is locally assessed. In Connecticut, for example, the real property of a telephone company is assessed by town and city assessors, while the personal property is taxed by means of a state-assessed gross earnings tax against which the real estate tax is offset. *Mobility* is the criterion determining the assessing agency.<sup>3</sup>

5. Intangible property is state-assessed and tangible property is locally assessed. Thus the Texas State Tax Board assesses the representative and nonrepresentative intangibles of pipe line companies, but their tangible property is locally assessed. *Corporeality* is the criterion determining the assessing agency.

6. Specifically designated items of property may be state-assessed and the remainder locally assessed, or vice versa. Thus in Nebraska, the counties assess railroads on their property outside the right-of-way and depot grounds, their repair shops, storehouses, and general office buildings, and all their nonoperating property; and the State Board of Equalization assesses all other railroad property. The Maryland Tax Commission assessed the rolling stock of steam railroads, while county officials assessed all other railroad property, until the law was amended in 1941 to provide for state assessment of all operating property except land.

Actual variations are much more numerous than this list indicates, since two or more of these methods of assigning property to assessing agencies are often combined. For example, provision is rather frequently made for state assessment of the operating property of an inter-district utility and for local assessment of its nonoperating property and of both operating and nonoperating properties of intra-district utilities. Another common practice is to combine the second and fourth methods by providing for state assessment of operating

<sup>3</sup> Mobility is the principal, but not the only, characteristic of personal property under the common law. However, many states have statutory definitions of real and personal property which specifically classify poles, conduits, and other items of property commonly owned by public service enterprises.

real property and all personal property and for local assessment of nonoperating real property.

The number of states in which each of these methods of dividing assessment responsibility is employed may be ascertained from Tables 14 to 17, pages 371 to 374. At this point it will suffice to say that transportation and communication companies are almost never wholly locally assessed, but are instead either wholly state-assessed or are state-assessed on their operating properties; that many of the other utility companies—water, gas, and electric companies, in particular—are wholly locally assessed either by operation of a general policy to that effect or by reason of their location within a single local assessment district; that the division between real and personal property is found principally among transportation and communication companies other than railroads; and that most of the states which assign the tangible property of public utility corporations to local assessors and their intangibles to state assessors make the same division of property for some or all corporations other than utilities.

### INTANGIBLES

Next to public utilities, intangibles comprise the class of property accounting for the largest aggregate assessments of state agencies. The state tax departments of almost all states assess some intangibles; and in some states they assess all intangibles which have not been exempted from property taxation.

The class of intangibles most widely state-assessed is bank stock, which is assessed by the State Bank Commissioner of Delaware, the State Treasurer of New Hampshire,<sup>4</sup> and the state tax departments of Louisiana, Maine, Maryland, Michigan, New Mexico, North Carolina, Ohio, and Pennsylvania. Next come bank deposits, which are state-assessed in Georgia, Kentucky, Michigan, North Carolina, Ohio, Rhode Island,

<sup>4</sup> This official assesses the shares of state banks, but the shares of national banks are locally assessed.

and Vermont.<sup>5</sup> Then comes the so-called "corporate excess,"<sup>6</sup> which is state-assessed for all corporations in Massachusetts and Rhode Island and for certain domestic corporations in Alabama and Illinois. Other state-assessed intangibles include the shares of building and loan associations in Kentucky and New Hampshire, the net value of life insurance policies in Massachusetts, the surplus of domestic life insurance companies in Maine, the shares of domestic insurance companies in New Hampshire, and securities held on margin account for residents by brokerage houses in Kentucky.

But a general policy of state assessment of taxes upon the capital value of intangibles can be said to exist in only six states, namely, Alabama, Connecticut, Georgia, Indiana, North Carolina, and Pennsylvania. In another seven states—Colorado, Maryland, Massachusetts, New Hampshire, Oregon, Tennessee, and Vermont—most intangibles are exempt from ordinary property taxes and are subject to special income taxes at flat rates higher than those (if any) applicable to income from other sources. The latter taxes, all of which are state-assessed, may be classified as special property taxes and have, in fact, been so classified by the legislatures and courts of several of the states imposing them. Finally, in Michigan and Ohio some intangibles are taxed on their capital value, others upon their income yield, and all assessments are made by the state tax department.<sup>7</sup>

Although state assessment of public utilities has become so prevalent that controversy has been relegated, so to speak, to

<sup>5</sup> In addition, franchise taxes measured by savings deposits are assessed by state agencies in Delaware, Maryland, Maine, Massachusetts, and New Hampshire.

<sup>6</sup> This is defined by the Committee on Assessment Terminology as "the amount by which the total taxable value of the property of a corporation, as determined by some method of unit assessment, exceeds the assessed value of those items of its property which are assessed piecemeal." Statutory definitions vary somewhat from state to state.

<sup>7</sup> The term "capital value" is rather loosely used in this paragraph to include market value, book value, face value, and even, in the case of Michigan, par value. See National Association of Assessing Officers, *Property Taxation of Intangibles*, July 1, 1939, for a more detailed description of these taxes.

the fringes of the subject, state assessment of intangibles is a recent development<sup>8</sup> and is not at present as widespread as local assessment of this type of property. This suggests the desirability of examining the results of state assessment of intangibles and comparing them, as far as it is feasible to do so, with the achievements of local assessors in this field.

Unfortunately, there is no simple and reliable way to test the extent to which taxable intangibles are brought within the tax net. One of the best procedures is to examine the probate records of a large number of estates and check them against the property tax assessment rolls.<sup>9</sup> But very few studies of this sort have been made, and there is almost no opportunity to make inter-state comparisons. A second procedure involves the use of presumptive indices of ownership of intangibles within the various states and a comparison of assessed intangibles within each state with the index of intangible property ownership for that state.<sup>10</sup> For example, total bank deposits may be used as an index of intangible property ownership, so that one state having twice as many bank deposits as another would be presumed to have twice as many dollars' worth of taxable intangibles of all kinds. This second procedure, though admittedly defective, seems to be the only one available for present purposes.

The principal defects in the procedure which must be resorted to should be mentioned before the results of the test are stated. These are three in number: (1) There is no completely reliable presumptive evidence of the total amount

<sup>8</sup> Connecticut's choses-in-action tax, which was enacted in 1889, has been state-administered from the beginning; but it has been a completely self-assessed tax, payment of which entitles the taxpayer to exemption from the locally assessed general property tax.

<sup>9</sup> Blakey and his associates found, for example, that only 17.33 per cent of the taxable intangibles in 805 Minnesota estates had been assessed. See their *Taxation in Minnesota*, University of Minnesota Press, Minneapolis, 1932, p. 217.

<sup>10</sup> See S. E. Leland, "An Appraisal of the Results Secured by the Application of the Principle of Classification of Intangible Property," *Proceedings of the National Tax Conference* (1928) v. 21, pp. 292-327; Ralph T. Compton, "The Taxation of Intangible Property," *The Tax Magazine* (1931) v. 9, pp. 292-97, 308-12.



of intangibles which a state may legally subject to taxation; (2) almost no state declares all intangibles within its jurisdiction to be taxable, and definitions of taxable and exempt intangibles vary widely from one state to another; (3) various factors other than the choice of an assessment agency affect the completeness with which taxable intangibles are listed. To illustrate, suppose that the banks in state A hold the same number of dollars on deposit as the banks of state B. This would be presumptive evidence that the amounts of taxable intangibles in the two states are equal. If, then, a state assessment agency in state A listed twice as many dollars' worth of intangibles as the local assessing agencies in state B, it might be assumed that state assessment had been proved markedly superior to local assessment. But this assumption might be quite inaccurate for the following reasons (among others): (1) The residents of state A may hold a large volume of intangibles other than bank deposits, while residents of state B hold most of their intangibles in the form of bank deposits; (2) state A may exempt no important classes of intangibles, while state B exempts corporation stocks or domestic real estate mortgages; (3) state A may have a low-rate tax on intangibles whereas state B continues to employ the general property tax, or state A may provide for assessment and collection of taxes on bank deposits at the source while state B attempts to assess them directly to depositors without information or assistance from the banks.

Of all the factors influencing the quantity of intangibles assessed, probably none is more important than the tax rate. Where the general property tax rate still prevails, intangibles are commonly unlisted or, what amounts to much the same thing, are deliberately listed at considerably less than full value. In all but a few instances, state-assessed intangibles are subject to low tax rates rather than general property tax rates, and it is therefore necessary to restrict comparisons to states in which locally assessed intangibles are also subject to low tax rates. But these low rates, in turn, vary from 0.1 mill to 6

mills, and these variations have their effects upon the volume of assessments. Furthermore, information and collection at the source have frequently been provided for state-assessed taxes though seldom for locally assessed taxes. Of course, if legislatures are willing to provide information and collection at the source only for state-assessed taxes, the success of state assessment need not be discounted for the latter factor, but evidence on this score is inconclusive.

Three presumptive evidences of taxable intangibles have been selected for the purpose of testing the effectiveness of state assessment. One is the total amount of bank deposits as reported by the United States Comptroller of the Currency. A second is the total amount of interest and dividend income reported by resident individuals to the Bureau of Internal Revenue.<sup>11</sup> The third is an estimate of total holdings of intangibles made by R. R. Doane.<sup>12</sup> The assessment of intangibles in each of twenty states, all of which have a low-rate tax on most intangibles, was compared with each of these three figures. The twenty states were then ranked according to their standings in each of the three tests. A composite rating was obtained by adding the rankings for the three tests for each state and arranging the states in ascending order.

Table 6 gives the three individual rankings and the composite ranking. The nine states whose names appear in italics are those in which all or a considerable proportion of the assessments of intangibles are made by a state agency. In the bank deposits test, eight of these states (89 per cent of the group as compared with the theoretically probable 50 per cent if state assessment and local assessment were equally effective and all other factors remained constant) lie in the upper half of the twenty states; in the second and third tests, seven (78

<sup>11</sup> Fiduciary income is included but interest on government obligations is excluded.

<sup>12</sup> *The Annalist* (1935) v. 46, p. 845. This estimate relates to the year 1932 but is compared with 1937 assessments of intangibles in deriving the ratios appearing in Table 6. The use of 1932 assessments would not have materially altered the rank of states in which no important amendments to the tax law have been adopted since that date.

per cent) lie in the upper half; and in the composite rating seven out of the nine top states have state assessment, while an eighth state with state assessment is tied for tenth place with a state whose intangibles are locally assessed.

In recognition of the fact that these rankings reflect differences in exemptions perhaps as much as differences in assess-

TABLE 6. RANKING OF STATES WITH LOW-RATE TAXES ON INTANGIBLES ACCORDING TO PRESUMPTIVE EVIDENCE OF SUCCESS IN ASSESSING SUCH TAXES, 1937<sup>a</sup>

Ranking by Bank Deposits Test	Ranking by Interest and Dividend Income Test	Ranking by Doane's Estimate of Intangibles	Composite Ranking
1. <i>Ohio</i> b	1. <i>Pennsylvania</i> c	1. <i>Kansas</i> d	1. { <i>Ohio</i> b <i>Pennsylvania</i> c
2. <i>Pennsylvania</i> c	2. <i>Ohio</i> b	2. <i>Ohio</i> b	3. <i>Kentucky</i> e
3. <i>Rhode Island</i>	3. <i>Kansas</i> d	3. <i>Pennsylvania</i> c	4. <i>Kansas</i> d
4. <i>Kentucky</i> e	4. <i>Kentucky</i> e	4. <i>Kentucky</i> e	5. <i>Indiana</i>
5. <i>Indiana</i>	5. <i>Minnesota</i> d	5. <i>Alabama</i> d	6. <i>Minnesota</i> d
6. <i>Minnesota</i> d	6. <i>Indiana</i>	6. <i>Indiana</i>	7. <i>Alabama</i> d
7. <i>Alabama</i> d	7. <i>Alabama</i> d	7. <i>Minnesota</i> d	8. <i>Rhode Island</i>
8. <i>Georgia</i> f	8. <i>Rhode Island</i>	8. <i>Oklahoma</i> h	9. <i>Georgia</i> f
9. <i>Kansas</i> d	9. <i>North Carolina</i> g	9. <i>Georgia</i> f	10. { <i>North Carolina</i> g <i>Oklahoma</i> h
10. <i>North Carolina</i> g	10. <i>Oklahoma</i> h	10. <i>Rhode Island</i>	12. <i>Virginia</i>
11. <i>Florida</i>	11. <i>Georgia</i> f	11. <i>North Carolina</i> g	13. <i>Florida</i>
12. <i>Oklahoma</i> h	12. <i>South Dakota</i>	12. <i>Virginia</i>	14. { <i>Iowa</i> <i>West Virginia</i>
13. <i>Virginia</i>	13. <i>Iowa</i>	13. <i>Florida</i>	16. <i>South Dakota</i>
14. <i>West Virginia</i>	14. <i>Virginia</i>	14. <i>West Virginia</i>	17. <i>Nebraska</i>
15. <i>Iowa</i>	15. <i>West Virginia</i>	15. <i>Iowa</i>	18. <i>Montana</i>
16. <i>South Dakota</i>	16. <i>Nebraska</i>	16. <i>South Dakota</i>	19. <i>California</i>
17. <i>Nebraska</i>	17. <i>Montana</i>	17. <i>Nebraska</i>	20. <i>Connecticut</i>
18. <i>Montana</i>	18. <i>Florida</i>	18. <i>Montana</i>	
19. <i>California</i>	19. <i>California</i>	19. <i>California</i>	
20. <i>Connecticut</i>	20. <i>Connecticut</i>	20. <i>Connecticut</i>	

Sources: Official state reports; Lloyd B. Raisty, *The Intangible Tax in Georgia*, The University of Georgia, 1940, p. 15; letter dated Jan. 13, 1941, from Edward B. Logan, Budget Secretary, Commonwealth of Pennsylvania; *Annual Report of the Comptroller of the Currency, 1937*, pp. 138-39; *Statistics of Income for 1937*, Pt. I, p. 130; *The Annalist* (1935) v. 46, p. 845.

<sup>a</sup> A small amount of intangible property taxed at general property tax rates is included in the data for Alabama (corporate excess), Connecticut (locally assessed intangibles), Georgia (bank shares), Kansas (corporate excess, shares of foreign corporations, shares of building and loan associations), and Minnesota (bank and mortgage company shares). All Montana intangibles are taxed at general property tax rates but are assessed at a fraction of full value. Assessments were estimated from tax yields for fiscal years in the following states: Alabama (foreign securities, domestic mortgages), Connecticut (choses in action), Indiana, Minnesota (domestic mortgages), Pennsylvania (all intangibles), and Rhode Island (savings deposits in state banks).

<sup>b</sup> The Ohio Tax Department's estimate of the capital value of "productive investments," derived by capitalizing the income yield at 6 per cent, has been adopted. All data are for 1938 assessments of 1937 holdings of intangibles.

<sup>c</sup> Changes in tax collection dates resulted in abnormally large yields of intangibles taxes in the fiscal year 1936-37; consequently 1937-38 yield data were used in estimating the assessments of all classes of intangibles except bank, insurance, building and loan, and

ment administration, several other tests were made in which the assessments of certain classes of property were dropped from states separately reporting them and the remaining assessments were compared with those in states exempting these classes of property.<sup>13</sup> Money on hand and bank deposits were omitted in one such test. There are twelve states which either exempt such property or separately report the amount assessed, and seven of them are states with a large measure of state assessment. Five of these seven states (71 per cent) ranked in the upper half of the twelve states.<sup>14</sup> In another test, money on hand, bank deposits, bank shares, building and loan association shares, and insurance company shares were omitted. This test also covered twelve states, but eight of them were in the state-assessment category. Five of the eight (62.5 per cent) placed in the upper half.<sup>15</sup> A third test was made, omitting the stock of all business corporations doing business in the state or so much thereof as was exempted or separately

<sup>13</sup> These tests are not entirely accurate because of careless classification of intangibles by taxpayers and assessors.

<sup>14</sup> The order in the composite rating was: *Pennsylvania, Alabama, Kansas, Ohio, Kentucky, Georgia, Oklahoma, Virginia, Florida and North Carolina* (tie), *Nebraska, Connecticut*.

<sup>15</sup> The order in the composite rating was: *Pennsylvania, Kansas, Alabama, Ohio, Kentucky, Indiana and Georgia* (tie), *Oklahoma, North Carolina* and *Virginia* (tie), *Nebraska, Connecticut*.

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trust company shares. Average collections for the two years 1936-37 and 1937-38 were used in the case of bank and trust company shares, collections for the first year being subnormal and for the second year abnormal because of litigation.

<sup>d</sup> The mortgage taxes of Alabama, Kansas, and Minnesota are nonrecurring, whereas all other assessments determining the rankings in this table are for annual taxes. Consequently, the 1937 assessments of mortgages in these three states should be increased by the assessments of previous years to allow for mortgages taxed in such years but still outstanding in 1937. The Alabama ranking has been determined by using the total assessments of mortgages for 1937 and for the two preceding years, on the assumption that the average recorded mortgage has a life of three years. Assessments for a five-year period were used for Kansas and Minnesota. The five-year period for the latter states is justified by several studies of mortgage indebtedness conducted at the Nebraska and South Dakota agricultural experiment stations and by the United States Building and Loan League. A shorter period is used in Alabama because chattel mortgages, which are customarily negotiated for shorter terms than real estate mortgages, are subject to the tax in that state. The Minnesota assessment of mortgages was estimated from the tax yield by assuming an average tax rate of 18 cents per \$100.

<sup>e</sup> The representative intangibles of state-assessed public utility companies are not separated from their nonrepresentative intangibles in the official reports and hence were not included in the data used in deriving this ranking.

<sup>f</sup> The assessment and bank deposit data used were for 1938, except bank share assessments, which were for 1936.

<sup>g</sup> The assessment and bank deposit data used were for 1938. Data on assessments of bank shares were not available.

<sup>h</sup> The assessment data used were for 1940, and bank deposit data were for 1939. Data on assessments of domestic mortgages were not available.

classified by assessors. Although the data are not exactly comparable as between states, it is significant that three out of five (60 per cent) of the states with central assessment of intangibles placed in the upper half of the ten states so tested.<sup>16</sup> These data are open to a variety of interpretations, but they seem at least to establish a presumption in favor of state assessment.<sup>17</sup>

### MINERAL AND FOREST PROPERTIES

Next in importance to intangibles among state-assessed properties come mineral deposits, mines, and mining equipment. Ten states<sup>18</sup> have assigned to a state agency the duty of assessing taxes on some such properties. Although most of these taxes are commonly called severance taxes and are based on the net proceeds, gross proceeds, or physical production of mines rather than on their capital value, they are levied in lieu of the general property tax and hence may properly be classified as special property taxes. Three other states<sup>19</sup> impose locally assessed proceeds taxes on mines; four<sup>20</sup> grant small property tax exemptions to certain mines and tax others under the general property tax; and the remaining 31 states impose locally assessed general property taxes on all mines and mineral deposits.

The significance of these special property taxes depends largely upon the types of mineral properties to which they apply. Among the state-assessed taxes, those of Montana, Ne-

<sup>16</sup> The order in the composite rating was: *Kentucky, Kansas, Indiana, Minnesota, Georgia, Pennsylvania, North Carolina, Virginia, Iowa, South Dakota.*

<sup>17</sup> The fact that Connecticut ranks at the bottom in all tests does not weaken this presumption. There are two reasons why assessments are so low in that state: (1) More classes of property are exempt in this state than in any other of the twenty states with the possible exception of California; (2) the state-assessed tax is in reality self-assessed, since the only penalty for not reporting intangibles to the Connecticut Tax Commissioner is liability to local assessment—hence the low assessment is perhaps as much a proof of ineffective local assessment as of ineffective state assessment.

<sup>18</sup> *Arizona, Louisiana, Michigan, Montana, Nevada, New Mexico, Oklahoma, Utah, Wisconsin, and Wyoming.*

<sup>19</sup> *Colorado, Idaho, and South Carolina.*

<sup>20</sup> *Alabama, Maine, New Hampshire, and Vermont.*

vada, New Mexico, and Utah apply to all mines and mining claims, while those of Arizona and Wyoming apply to all producing mines. The other state-assessed special property taxes apply to mines or deposits containing specified types of minerals. Judging by the gross value of mineral products in 1937, the coverage of the latter taxes ranges from over 95 per cent of the mineral resources of Louisiana and Oklahoma down to 7 per cent of the Wisconsin resources.

But not all of the property connected with a mine or mineral deposit is free from locally assessed general property taxes even though a state-assessed special property tax is imposed. Unextracted minerals are legally exempt from local assessment in all ten states; but surface improvements and machinery are subject to local assessment in all states except Oklahoma, Utah, and perhaps New Mexico. Equipment and supplies are subject to local assessment in most of the states, and surface rights having a value for non-mining purposes in at least half of them. (See Table 18, page 378.)

Although not strictly within the field of state assessment, mention should be made in passing of the extensive assistance in the assessment of mines which has been given local assessors by the state tax departments of Michigan and Minnesota. In both instances the legal authority for performing the assessment function is vested in local officers. But the Michigan state tax department reassessed all mines in the state in 1911, and practically all changes in assessed valuations since that date have been based on appraisals made by the department with the assistance of the State Geological Survey. Similarly, the Minnesota state tax department, acting under its powers of review and with the full cooperation of the Minnesota School of Mines, has assumed a large measure of responsibility for assessment of the iron mines of that state.

Forestry is the second extractive industry which has been partially removed from the scope of the general property tax. Approximately one-half of the states either have granted some exemption to timber or to both timber and land or

have provided for a special mode of taxation designed to relieve such property of the cumulative burden of the annually recurring general property tax.<sup>21</sup> These special modes of taxation vary considerably from state to state, but most of them fall into one of three chronological categories: (1) annual taxes, usually upon the land alone; (2) "yield" taxes, which are imposed upon the timber at the time of cutting; and (3) the relatively unimportant "declassification" taxes, which are imposed at the time the forest property reverts to the general property tax roll either for failure of the owner to maintain the conditions qualifying it for preferential taxation or because of termination of a contract period or maturity of the timber.<sup>22</sup> Taxes in the first category are found in some 17

<sup>21</sup> Louis S. Murphy, *State Forest Tax Law Digest of 1939*, Forest Taxation Inquiry, Washington, D. C., 1939. Developments too recent to appear in this publication include (1) the repeal in 1940 of the Mississippi exemption law and substitution of a yield tax; (2) a decision by the Pennsylvania Supreme Court holding the forest tax laws of that state unconstitutional and requiring the taxation of forest properties under the general property tax; and (3) a 1941 Washington law permitting owners of forests to defer payment of a portion of their annual property taxes.

<sup>22</sup> This three-fold division of special forest taxes may be elaborated along the following lines:

I. Annual taxes

A. On land

1. Specific taxes

- a. At a fixed rate per acre
- b. At general property tax rates on an arbitrary valuation of, say, \$1 an acre

2. Ad valorem taxes

- a. On valuations established at the same intervals as apply in the assessment of other real property
- b. On valuations which are established at, or shortly prior to, removal of the property from the general property tax roll and which remain fixed for long periods of time

B. On timber at a rate lower than the general property tax rate

II. Yield taxes

III. Declassification taxes

- A. A tax substantially equivalent to the yield tax, assessed on the stumpage value of standing timber
- B. A "differential" tax, computed as the difference between what the taxes would have been under the general property tax and what they actually were, usually with an addition (or deduction) for interest
- C. A value increment tax, applied at a fairly high rate on any increase in value occurring during the period of classification

states and are locally assessed in all of them except Alabama; those in the second category, which are found in 13 or 14 states, are locally assessed, state-assessed, and cooperatively assessed by state and local officials in about equal numbers of states; and those in the third category, which are almost invariably associated with the yield tax, are usually assessable by the agency to which the administration of the latter tax is assigned. (See Table 19, page 380.)

Just as some mines and mineral deposits are ineligible for special mineral taxes, so some forests are ineligible for special forest taxes; certain restrictions as to the type of trees, the maturity of the timber, the number of trees per acre, or the size of the forested area appear in the laws of almost all states. Thus it is estimated that the ratio of eligible forest area to total privately owned commercial forest area ranges from 3.5 per cent in New York to 100 per cent in Connecticut. But there is a further factor which restricts the operation of special forest tax laws to a still smaller fraction of privately owned forest properties: Owners are usually permitted to choose between the special tax and the general property tax, and until application is made the land and timber remain on the general property tax rolls. Restrictions upon the use of classified forests have frequently discouraged exercise of the option even by those who are informed of it. Consequently, Oregon is the only state for which data are available that has an estimated ratio of classified forest area to *eligible* privately owned commercial forest area exceeding 15 per cent and an estimated ratio of classified area to *total* privately owned commercial forest area exceeding 5 per cent.<sup>23</sup> The principal example of state assessment of forest properties is therefore found in Maine, a state which has a forest exemption law but no special forest tax. Two-fifths of the total area of the latter state and a considerably larger fraction of the wooded area is not organized into towns, cities, and plantations and is assessed under

<sup>23</sup> Tax Research Foundation, *Tax Systems*, Commerce Clearing House, Chicago, 1940, p. 266.



the direction of the State Tax Assessor for general property tax purposes.<sup>24</sup>

### MOTOR VEHICLES

Motor vehicles, like mines and forests, are not infrequently subjected to a special property tax in lieu of the general property tax. Thus we find eight states<sup>25</sup> in which motor vehicle owners must pay not only a state registration tax for the privilege of using the highways of the state but also a second tax which is intended to approximate the general property tax in burden and is imposed in lieu thereof. This special property tax is locally administered in all respects in four states; it is cooperatively administered by state and local officials in three states;<sup>26</sup> and is wholly state-administered only in California. (See Table 20, page 382.)

State tax departments in several other states actively participate in the assessment of motor vehicles, but they do so in their capacity as general supervisors of the assessment process rather than as original assessing agencies. The closest approach to original assessment is in Nebraska, whose State Tax Commissioner is instructed by law to prepare a schedule of motor vehicle valuations. However, these valuations are prepared for the "consideration" of local assessors and are in no respect binding upon them.

### PERSONAL PROPERTY USED IN BUSINESS

There are two states in which state tax departments directly assess a large part of the tangible personal property owned by business concerns. The Maryland Tax Commission assesses all taxable personal property of corporations,<sup>27</sup> and the Ohio Tax Commissioner has exclusive assessment jurisdiction over practically all of the tangible personalty of corporations and over much of that held by proprietors and business partner-

<sup>24</sup> See p. 43.

<sup>25</sup> Arizona, California, Colorado, Maine, Massachusetts, New Hampshire, Washington, and Wyoming.

<sup>26</sup> Colorado, Massachusetts, and Washington.

<sup>27</sup> *Code of Public General Laws*, Art. 81, sec. 10 (b), as amended by *L. 1941*, ch. 36.

ships.<sup>28</sup> The amount of taxable property which would be withdrawn from the jurisdiction of local assessors should the policies of these two states spread is very large. It is therefore interesting to note briefly the historical development of the policy in each state.

The Maryland policy finds its roots in a law of 1878, which transferred from local to state officials the duty of assessing a share tax then imposed upon most domestic corporations in lieu of direct taxes upon their personal property. Assessments of these shares were certified to the various local governments within which stockholders resided and were there placed in the general property tax rolls. The shares of a corporation were listed at their aggregate value less the assessed valuation of the corporation's real estate or at the value of the corporation's real estate and chattels, whichever was highest.<sup>29</sup>

A tax study commission recommended in 1913 that this share tax be abolished and that the tangible personal property of corporations, like other tangible personalty, be locally assessed.<sup>30</sup> The commission contended, among other things, that the provision for a minimum assessment equal to the value of real estate and chattels was unenforceable and that the tax was in considerable measure self-assessed. The 1913 legislature adopted these recommendations in part by repealing the share tax on domestic business corporations and returning their tangible personal property to the tax rolls. However, to have made this tangible personalty locally assessable would have resulted in a substantial migration of taxable

<sup>28</sup> Tangible personal property not used in business, with the exception of domestic animals, watercraft, and aircraft, is exempt from property taxation in Ohio. Small holdings of taxable property are assessed by county auditors acting as deputies of the Tax Commissioner.

<sup>29</sup> Up to this point, the Maryland share tax had a history not unlike that of similar taxes in Massachusetts and Pennsylvania. The complete exemption of the personal property of most corporations in Pennsylvania and the exemption of most of the personal property of business and manufacturing corporations in Massachusetts is attributable to the early development of an in-lieu share tax which was at first locally assessed and later state-assessed. The Massachusetts share tax eventually became an excise tax on the "corporate excess."

<sup>30</sup> *Report of the Commission for the Revision of the Taxation System of the State of Maryland and the City of Baltimore*, 1913, pp. 271-72.

values from the residences of shareholders to the places of business of these corporations. Consequently, the State Tax Commission was made the assessing agency, and the taxable values were distributed as formerly to the residences of shareholders.

Another special study commission, reporting in 1923, recommended the enactment of net income taxes in lieu of personal property taxes. However, no important changes were made in the law governing the taxation of personal property of business corporations until 1939. In the latter year, two important amendments were enacted: (1) The tangible personality of *foreign* business corporations was made assessable by the State Tax Commission under the laws applicable to similar property of *domestic* business corporations; (2) this property was made taxable at its physical situs instead of at the residences of shareholders. Thus, although the second amendment seems to have removed the original occasion for state assessment of these assets, and despite some pressure for their return to the jurisdiction of local assessors, the scope of state assessment was actually increased by the 1939 legislature. It was again increased in 1941 by an act which brought all corporations under the law previously applicable only to so-called "ordinary business" corporations. These acts can be interpreted only as legislative approval of the policy of state-assessment.

The Ohio experiment with direct state assessment of tangible personal property is of more recent origin. After many years of agitation, the Ohio Constitution was amended in 1929 to permit the taxation of personal property and real property by different rules. This opened the door to revolutionary changes in the taxation of personalty, and state assessment was one of the products of the revolution. Most of the public discussion at the time seems to have centered about the assessment of intangibles, which, with the general property tax rates previously obtaining, had been unsatisfactorily administered by local assessors. Apparently the rather inarticu-

late movement for state assessment of tangible personalty was supported by the demand for state assessment of intangibles and by general dissatisfaction with the inequalities which then pervaded Ohio tax administration.<sup>31</sup>

The shift from the share tax to state assessment of tangible personalty was accomplished in Maryland without any marked change in the tax base. In Ohio there may have been a considerable change, but the true effect of the transfer from county assessors to the state department was somewhat concealed by the fact that no assessment was made in 1931. In the interval between 1930, the last year of local assessment, and 1932, the first year of state assessment, the assessed valuation of tangible personalty<sup>32</sup> dropped 21 per cent, from \$1,103,000,000 to about \$876,000,000. This decline from a year of recession to one of extreme depression is not excessive and compares favorably with a 26 per cent decline in personal property assessments in Michigan. But the significant thing is that a decline of only 21 per cent was registered when the legal assessment ratio was decreased by 30 per cent for the personal property of merchants and by 50 per cent for the personal property of manufacturers. When proper allowance is made for the continuation of the depression and the customary lag of assessed valuations behind true values during the business cycle, the record of subsequent years is equally good. It seems probable, then, that state assessment in Ohio has at least had the effect of bringing personal property assessed valuations nearer the statutory level.<sup>33</sup> Whether it has also been successful in bringing about greater uniformity in personal property assessments is impossible to say on the basis of the small amount of evidence available. The probability is that there is greater

<sup>31</sup> This paragraph is based largely on a letter from S. J. Barrick, formerly Tax Economist of the Ohio Governor's Taxation Committee, dated April 19, 1941.

<sup>32</sup> Excluding those items of personalty which were taxable in 1930 and not in 1932.

<sup>33</sup> John A. Zangerle, auditor and ex-officio assessor of Cuyahoga County, points out, however, that much property formerly classified as realty is now classified as personalty. It is impossible to make proper allowance for this factor.

disparity in a few counties and greater uniformity in others.<sup>34</sup>

### PUBLICLY OWNED PROPERTY

Most property owned by governmental units is exempt from property taxes. There are, however, instances in which the state has granted to local governments the right to tax certain state-owned properties which are considered to be a burden upon the community either because they lower surrounding land values or because they occupy so much of the area of a town or county that the remaining area is unable to support the functions of local government. As a safeguard against the abuse of this taxing privilege, it has usually been surrounded by certain safeguards, one of which is state assessment. Thus, we find provisions for assessment by the Connecticut Tax Commissioner of state lands used for a variety of public purposes or leased for private use,<sup>35</sup> for assessment by the Massachusetts Commissioner of Corporations and Taxation of state lands used for institutional and other specified purposes,<sup>36</sup> for assessment of state game farms by the Michigan Tax Commission,<sup>37</sup> and for the assessment of certain taxable lands owned by the University of Texas by the Texas State Tax Board.<sup>38</sup> The New York State Tax Commission participates in the process of assessing taxable state lands, but, unlike the state agencies previously mentioned, does not have final authority.<sup>39</sup>

There are also a few instances in which property owned by one local government is taxable by another. State assessment is sometimes proposed as a safeguard against overvaluation of this property by the taxing jurisdiction; and it has been

<sup>34</sup> Any deterioration which may have occurred should be ascribed at least in part to an ill-conceived and unreasonably complicated tax law with a division of authority between state and local officials which is anything but clear-cut. See Zangerle and Bethel, *Ohio's Classification Tax Law—Difficulties of Joint State and Local Administration*, April 1, 1937; *Montgomery County Survey*, Public Administration Service, Chicago, 1940, pp. 274-76.

<sup>35</sup> *General Statutes*, 1930, sec. 1103.

<sup>36</sup> *General Laws*, ch. 58, sec. 13.

<sup>37</sup> *Compiled Laws*, sec. 3738-3740.

<sup>38</sup> *Revised Civil Code*, Art. 7150c (3).

<sup>39</sup> H. R. Enslow, "State Supervision of Assessment in New York," *The Tax Magazine* (1938) v. 16, p. 460.

adopted in Massachusetts with respect to land occupied by certain county-owned hospitals and taxed by the town or city in which it is situated.<sup>40</sup> Although the California Constitution makes special provision for state review of assessments of taxable real property owned by counties and municipalities,<sup>41</sup> we know of no other provision for original state assessment of the property of local governmental units.

#### INDUSTRIAL PLANTS AND DISTILLED LIQUORS

Only one state, it appears, has made provision for state-assessment of factories. The South Carolina Tax Commission, in addition to its powers of review over all assessed valuations, has the power of original assessment of the property of textile manufacturers, cotton seed oil companies, and fertilizer companies.<sup>42</sup> The returns of these companies are made in the first instance to county auditors, are then passed upon by local assessment boards, and are transmitted with recommendations to the Tax Commission. The action of the Tax Commission, which is actually little more than a review of local assessments, is final unless appeal is taken to the Tax Board of Review.

Mention should perhaps also be made of the authority of the North Dakota Tax Commissioner to value "as a single property" each refinery, "including tank farms, storage of crude oil, and refined products, together with real estate, buildings and structures, and all equipment used in connection with the business of securing, saving, storing, transporting and refining of petroleum products."<sup>43</sup> This is not, however, a true case of state assessment, since the values so established may be lowered by local assessors and review boards if they consider such action necessary as a matter of equity.

Distilled spirits are state-assessed in Maryland and also in Kentucky if held in a "distillery bonded warehouse." The Kentucky law dates back to 1882 and the Maryland law to

<sup>40</sup> *General Laws*, ch. 58, sec. 13.

<sup>41</sup> Art. XIII, sec. 1.

<sup>42</sup> *Civil Code*, 1932, sec. 2661.

<sup>43</sup> *North Dakota Session Laws*, 1937, ch. 250.

1892. No record has been found of the circumstances surrounding the enactment of either law.

### COOPERATIVE STATE AND LOCAL ASSESSMENT

The state tax departments in most states may be said to cooperate with local assessors in the making of original assessments, especially in the activities described in Chapter X. However, there are a few states in which the cooperation goes somewhat beyond the supervisory stage. When the state tax department actually assigns values to a class of property and the authority of the local assessor is restricted to the enumeration, classification, and listing of items of property, neither agency can be said to have sole responsibility for the original assessment. This unusual situation exists in New Mexico, Nevada, and Wyoming. In all three of these states the state tax department is directed to fix valuations for classes of livestock, and the New Mexico Tax Commission is also required to assign valuations to various classes of range land.

### THE PROS AND CONS OF STATE ASSESSMENT

Up to this point little or nothing has been said of the arguments which may be advanced in justification of state assessment of some or all types of property. State agencies appear to have five important advantages over local agencies.

1. The state government has command over more resources than any one of its political subdivisions and can presumably secure better qualified personnel than is available for local assessing departments.

2. A state-wide assessment district permits a much higher degree of specialization by employees of the assessing department than is possible with the limited number of persons who can find continuous employment in a single local assessment office.

3. The application of uniform standards and practices over a state-wide area creates greater uniformity within a class

of property than is likely to obtain with assessment by independent local agencies.

4. The larger the assessment district, the fewer the occasions in which a single property lies in more than one district and the greater the opportunity to assess each property as a unit.

5. State officials often have ready access to records (e.g., federal income tax returns) which are unavailable or not readily accessible to local officials.

Despite these advantages, the assessment of property taxes is traditionally a function of local government and will probably remain a local function for many years to come.<sup>44</sup> This allocation of responsibility is not simply the persistence of an outmoded and discredited institution.<sup>44</sup> Aside from the virtue of avoiding drastic changes without having clearly established the superiority of the proposed system over existing systems, local assessment of property taxes is a practice which is supported by the following arguments:

① Local governments have the largest, and sometimes the only, stake in the property tax and hence are likely to attend more carefully to its administration. Just as counties often fail to give cities an acceptable assessment,<sup>45</sup> so states, if charged with this duty, might fail to give certain localities as good an assessment as has been provided by their counties or cities.

② Local officials are likely to have a more intimate knowledge of local conditions and resident taxpayers than state officials. To overcome this handicap, state assessing agencies would need to decentralize their administration to the point where it would in some respects resemble the present system of local assessment and would lose some of the presumed advantages of state assessment.

3. Although this decentralization would seem to be inevitable, there would be a natural tendency to minimize district offices and to limit the authority of district representatives,

<sup>44</sup> See, however, J. D. Silverherz, *The Assessment of Real Property in the United States*, New York State Tax Commission, 1936.

<sup>45</sup> See p. 73.



with the result that the convenience of local taxpayers would be sacrificed.

4. Large organizations, such as would be required with exclusive state assessment, tend to become more cumbersome and expensive than small ones, with the result that state assessment might prove slower, less economical, and less responsive to public needs than local assessment.

5. An officer or board which controlled all property tax assessments in the state and appointed the hundreds or thousands of employees required for the conduct of the work would be an extremely powerful political figure. Without adequate safeguards against abuse of this power, it would be preferable to maintain the traditional local assessment districts.

After careful examination of the theory and practice of state assessment, it is our conclusion that local assessment of most taxable property is not only politically inevitable within the predictable future, but that it is preferable to exclusive state assessment in the present stage of development. It is obvious, however, that local assessment of some types of property is undesirable. The following recommendations have therefore been framed to guide legislatures in the division of the original assessment function between state and local agencies.

### RECOMMENDATIONS

**1. *The division of jurisdiction between state and local assessment agencies should be clear both to taxpayers and to assessors.***

One of the major objections to a division of the original assessment function between state and local agencies is that the line of demarcation is frequently vague. The problem is particularly acute where it is clearly to the interest of the taxpayer to have his property assessed by one of the two agencies because of differences either in assessment policies or in tax rates. For example, a certain local assessor may be known to assess at a lower than average ratio of full value, in which case the taxpayer will probably prefer to assign as much as

possible of his property to the jurisdiction of this assessor rather than to rely upon the state equalization to adjust assessments to a uniform level. Or the property assessed by the state may be taxed at an average state rate, as is true, for example, of most public utility properties in Michigan, in which case the taxpayer will attempt to assign property in high-rate districts to state assessment and property in low-rate districts to local assessment.

Even where there is no apparent advantage to the taxpayer in either state or local assessment, the failure to establish a clear-cut distinction is likely to result in confusion and inequity. A substantial amount of legally taxable property is left off the tax rolls entirely because the local assessors within whose jurisdiction it lies assume that it is assessable by an officer of the state.<sup>46</sup> On the other hand, the vigilance of taxpayers sometimes fails to prevent the assessment of items of property by two assessment districts which, in contemplation of law, are not overlapping.

***2. Other things being substantially equal, the agency assessing a property tax should be in the administrative branch of the government which depends most heavily upon the proceeds of the tax.***

There are several instances in which an agency of a local government is required to assess a tax from which the local government receives no direct revenue. For example, county officers in Florida, Kentucky, and Virginia are the assessors of taxes on intangibles despite the fact that all of the tax revenues go to their state governments. True, some of these revenues filter back to the counties in the form of grants-in-aid, but the amount received by any one county bears no direct relation-

<sup>46</sup> See, for example, *Gully v. Mississippi Valley Co.* (1938) 181 Miss. 669, 180 So. 745, in which it was held that nonoperating property of a railroad which was listed upon the assessment roll but was not valued because of a mistaken belief that the assessment was to be made by the State Tax Commission could not be back-taxed for the years 1933 to 1935. See, also, Hale T. Shenefield, "New Techniques in Assessment Procedure," *Municipal Finance*, November 1938, p. 39; Illinois Tax Commission, *Sixteenth Annual Report, Assessment Year 1934*, p. 99; *Assessors' News Letter* (1941) v. 7, p. 19.

ship to the amount of that county's assessment. Hence the county electorate, which selects these assessors, and the county legislative and executive body, which exercises some control over them, have no personal interest in the success with which the assessor enforces the law. This inevitably gives rise to a degree of local indifference, if not outright opposition, to enforcement measures. Attempts to overcome this indifference by compensating the assessor on a commission basis, state sharing of the expenses of assessment, mandatory local expenditure laws, and general state supervision have been partially successful, but at least the first of these remedies is worse than the malady. Better results would be realized by giving local governments a percentage of the taxes assessed or transferring the assessment function to an agency of the state government.

The converse situation, in which a state agency assesses taxes all of which are devoted to the support of local government, is not as detrimental to the cause of good assessment. From a coldly logical viewpoint, a state agency should assess such a tax as conscientiously as it does a tax which is levied for the support of the state government itself. Actually, however, there is some tendency for a person associated with a particular government, whether in a legislative or an administrative capacity, to identify his interests with those of the government rather than with those of the public. It is therefore often the case that a state-assessed tax is better assessed when a substantial part of the proceeds is retained in the state treasury.

The allocation of tax proceeds to particular governments is, of course, a matter of policy with which neither this committee nor the National Association of Assessing Officers as a whole is concerned. It should be noted, however, that local governments suffer greatly from sudden changes in revenue sources because of their closely restricted revenue raising powers, their many inelastic expenditures, and their limited credit resources. Shifts from local to state assessment should be made with this fact in mind. If the state is already sharing substantially in the tax or is prepared to grant ade-

quate replacement revenues to local governments in return for such a share, a shift may be desirable which otherwise would not be. And if a shift from local assessment to state assessment is made, let it be emphasized that there is no impelling necessity for a like transfer of tax proceeds. The practice of assessing public utilities centrally and then certifying the assessment to local officials for inclusion in local tax rolls is a familiar one in all sections of the country, and it seems to be about as successful in states whose local governments retain all of the proceeds as it is elsewhere.

***3. All property of a type which customarily lies in more than one local assessment district and which is more equitably or easily assessed as a unit than as a series of geographically isolated parts should be assessed by a state agency.***

Many public utility systems extend beyond the boundaries of individual assessment districts and even across state lines. The portion of such a system lying within a single district has an indeterminate value. If this portion were to be permanently divorced from the remainder of the system, it could probably be sold only at scrap value. On the other hand, the value of the remainder of the system might be very materially reduced by cutting off a portion of it. The value of the whole system is considerably greater than the sum of the scrap values of its several portions; and it is considerably less than the sum of the value losses which would arise from successively cutting it up by divorcing from the whole system that part lying in each local assessment district. Consequently, the system can be accurately appraised only as a whole, and the system value must be arbitrarily apportioned to the several local assessment districts in which the utility operates.

It would be possible, of course, for each local assessor in whose district a particular public service corporation operates to go through this process. But this would require as many estimates of system value as there were local assessment districts in which the system lay, which would mean not only a

great deal of unnecessary labor but also a multiplicity of disputes over widely varying appraisals. Furthermore, unless restricted by a statutory formula, each assessor would tend to choose that method of apportionment which would give his district the largest fraction of the total system, with the probable result that the system would be assessed for considerably more than its full value. Consequently, it is a matter both of economy and of equity to place the assessment function in the hands of a state agency.

This recommendation calls for assignment of properties of a particular type to a state assessment agency when they customarily lie in more than one local assessment district. Occasional interdistrict location is not in itself sufficient justification for state assessment. The policy exemplified by state assessment of interdistrict public utilities and local assessment of intradistrict utilities is also disapproved. The assessment machinery which is established to cope with an interdistrict property should also be used in the appraisal of a second property differing from the first only in that it fails to cross the boundary line of a local assessment district.

***4. Property of a migratory character which is constantly moving in and out of a state should ordinarily be assessed by a state agency.***

The rule of law by which movable property was taxable at the residence of its owner has long since been largely abandoned as far as tangible property is concerned. It is the present rule that such property is taxable by the state in which it has physical situs; and most states have followed the same rule in determining situs for local taxation of property owned by non-residents if not for all tangible personalty. The physical situs of such property is determined (1) by its customary location, (2) by its location on the assessment date, or (3) by what might be termed its "average" location during the assessment year. These three rules of situs may be illustrated by a piece of road building machinery which is customarily kept in city

A, is in township B on the assessment date, and was in township B for half of the assessment year and in city A for the other half. Under the first rule of situs, this machinery would be taxable in city A; under the second rule, it would be taxable in township B; and under the third rule, half of the value of the machinery would be taxable in city A and the other half in township B.

If all migratory property had a well-defined "customary" location, local officials would be reasonably capable of assessing it. But the customary location of many items of property is no easier to determine than the residence of a migratory worker. Location on the assessment date, especially when there is an assessment "minute" as well as an assessment day, is a much more precise definition of tax situs. But this would require a rapid survey of the whole assessment district, and would confront many assessors with a temporary employment problem which they would not welcome. The third rule of situs may be even more difficult for local assessors. They can hardly be expected to establish border patrols and keep continuous records of all the migratory property passing through their districts; and reliance must therefore be placed upon such records as the owners of the property may keep. Whether the property should be state-assessed or locally assessed depends, then, a great deal upon the availability of these records. If the records are inadequate for assessment purposes and a border patrol is required, the situation calls for state ports of entry and state assessment. If movements in and out of the state, but not movements in and out of local assessment districts, are adequately recorded, state assessment with more or less arbitrary allocation to local districts is indicated. And if the owners' records are adequate in all respects but are centrally located, either within the state or at some place outside the state, local assessors ought not to be required to list this type of property.

**5. Properties which are inventoried by state or federal regulatory agencies should ordinarily be assessed by the state.**

The development of state regulatory agencies has resulted in a wide range of activities which to some extent duplicate the work of assessing officers. For example, the states are generally engaged in continuous supervision of insurance companies, state banks and trust companies, building and loan associations, and public utilities. A corps of experienced accountants, auditors, statisticians, and valuation engineers is employed to inventory the assets of these concerns. It is believed that economy and efficiency demand state assessment of the property of concerns subject to this type of regulation.

In making this recommendation, we wish to avoid the implication that the property tax assessment should be made by the regulatory agency. The purposes for which regulatory valuations are made always differ from, and frequently conflict with, those of the tax assessor. By way of illustration, a public utility commission is not concerned with arriving at the market value of a utility property, but rather with ascertaining an investment (usually a mixture of original and reproduction costs) upon which the company will be allowed to earn a certain percentage return if such a return can be earned.<sup>47</sup> We therefore favor assignment of the assessment function to the state tax department. This should still permit a full measure of cooperation between the regulatory and assessing personnel at a minimum of expense.

Several federal agencies also possess records of considerable value to those making appraisals for property tax purposes. Chief among these are the Interstate Commerce Commission, the Federal Communications Commission, the Securities and Exchange Commission, and the Bureau of Internal Revenue. While full use by property tax assessors of the findings of these federal agencies can hardly be expected under our dual form of government, it is obvious that state tax agencies are much

<sup>47</sup> See *State of Utah v. Southern Pacific Co.* (1938) 95 Utah 84, 76 Pac. (2d) 25.

better able than most local assessors to secure access to federal records and officials and hence to exploit such assistance in property appraisal as they may afford.

**6. Properties which are found in relatively small numbers in all or several local assessment districts, which are of considerable value, and which can be effectively appraised only by highly trained persons should be assessed by the state.**

There are several types of valuable properties, mines and public utilities being the best examples, which are scattered throughout the state and which many of the local assessors in whose districts they happen to be situated cannot reasonably be expected to appraise accurately. Even in an important mining state, it would be difficult or impossible to place a mining engineer or geologist on the staff of each local assessor, both because of the limited number of such persons available and because they would be required either to work part time or to devote most of their efforts to work outside their field of training. The best method of overcoming these obstacles to expert appraising of such properties is to place the assessment function in the hands of the state tax department.

**7. Highly standardized properties the value of which is little affected by location should be assessed by a state agency, provided its facilities for discovering such properties are not inferior to those of local assessors.**

Mobile and nonperishable properties, such as motor vehicles, whiskey stored in bonded warehouses, and especially intangibles, have a value which is practically uniform throughout a state or even throughout the nation. There are definite advantages in assigning such properties to a state assessing agency, and these advantages are particularly great where the properties are highly standardized. With state assessment, valuation schedules can be established without the necessity for duplication of effort by a multitude of assessing agencies, and uniformity throughout the state can be virtually assured. The economy of this procedure depends, however, upon a de-



gree of standardization which makes actual inspection of the property unnecessary to its fair appraisal. For example, local assessment of commercial motor vehicles, many of which have non-standardized bodies, might perhaps be desirable even though private passenger vehicles were state-assessed.

***8. Properties whose tax situs is commonly altered, or thought to be altered, with the purpose of minimizing the taxes levied on them should be assessed by a state agency, provided its facilities for discovering and valuing such properties are not inferior to those of local assessors.***

Communities within a state not uncommonly bid against each other for residents and business concerns by offering them immunity from full-value assessments. Such offers are frequently made, for instance, to owners of large investments. Their intangibles are ordinarily assessable at their residences, and many of them are bound to their residences only by ties of sentiment. Under such circumstances, it is not difficult for them to bring effective pressure upon a local assessor, either directly or through a chamber of commerce, city council, or other public or private agency, by threatening to move a few miles away into a more "friendly" jurisdiction. Small manufacturers frequently resort to similar threats, while many large operators are not above driving a sharp bargain with a community in which they propose to locate a plant or from which they are tempted to move.

To the extent that this competition is intrastate in character, it is clearly against the interests of the state as a whole and can be largely corrected by assigning the assessment function to a state agency. Of course this agency may still engage in competitive underassessment as a means of inducing immigration into the state or preventing emigration to other states, but this is not as likely to occur because interstate movement is more difficult and more costly than intrastate movement and because a state agency is probably subject to scrutiny by many more persons than are local assessing agencies.

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## *Chapter IV*

### **Internal Organization of Local Assessment Departments<sup>1</sup>**

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**W**HEREVER an assessing department is manned by more than one person, a problem of internal organization exists. For internal organization is simply the formal plan by which the work of an operating unit is divided among two or more persons in such manner that the efforts of these persons may be coordinated. Of course, problems of organization increase with the size of the department. The more people involved, the greater the subdivision of work and the more difficult it is to secure a smooth flow of work from one employee to another and to get the maximum output with the minimum effort. The subject matter of this chapter therefore relates more specifically to large departments than to small ones.

As a matter of fact, organization can hardly be said to exist or to be needed in many small offices, where relationships are intimate and contacts are continuous. While some plan of work division and coordination is doubtless accepted for mutual convenience and perpetuated as a matter of habit, it lacks the formality which characterizes internal organization

<sup>1</sup> The term "department" is generally used to designate the major operating units into which the administrative branch of a government is divided. The next smaller unit is usually known as a "division," except in very large governments, where it is frequently designated as a "bureau." When the units into which departments are divided are known as "bureaus," they may in turn be divided into still smaller units known as "divisions." Throughout this chapter, we will assume that property taxes are assessed locally by an "assessment department" whose head is directly responsible to the chief executive, the legislative body, or the electorate. The discussion is equally applicable, however, to an "assessment division" or a "bureau of assessments" whose head is directly responsible to a chief finance officer. (See pp. 324-25.)

as we have defined the term. Nevertheless, there is a point at which a department reaches a size that demands a formal organization pattern; and, after all, the difference between an informal pattern and a formal one is essentially a difference of degree, not of substance.

### FUNCTIONS OF THE LOCAL ASSESSING DEPARTMENT

The organization of an administrative unit depends primarily upon the nature of the duties with which it is charged. In the field of local government, these duties may be imposed by state law, by local charters, by ordinances or resolutions of the local legislative body, and by executive orders. For the most part, the duties of local assessing departments are prescribed by state law. The principal, and sometimes the only duties so prescribed are those involved in discovering, appraising, and recording locally assessable property. This locally assessable property includes ordinary real property in all states; most tangible personalty in all states except Delaware, New York, Pennsylvania, Ohio, Maryland, and Massachusetts;<sup>2</sup> and important classes of intangible property in about half of the states.<sup>3</sup>

Other duties assigned to assessors and their departments vary considerably from one state or section of the country to another. In the East and Northeast, boards of assessors usually serve as assessment review agencies, while single assessors in

<sup>2</sup> See p. 100 for a description of the manner in which tangible personalty is divided between state and local assessing agencies in Ohio and Maryland. In the first three states mentioned, all such property is exempt. In Massachusetts, very little personal property of corporations is taxable; for example, manufacturing corporations are assessed only for their realty, motor vehicles, trailers, underground conduits, wires, and pipes, while mercantile corporations are assessed for the foregoing list of property and also for any machinery which they may own.

<sup>3</sup> The states in the last of these categories are: Arkansas, California (but most intangibles are legally exempt), Florida, Illinois, Iowa, Kansas, Kentucky, Louisiana, Maine, Minnesota, Missouri, Montana, Nebraska, Nevada, New Jersey, New Mexico, Oklahoma, Pennsylvania, Rhode Island, South Dakota, Texas, Virginia, West Virginia, and Wyoming. In some of these states the assessors of both primary and overlapping districts assess intangibles, but in California, Florida, Kentucky, Nebraska, Pennsylvania, and Virginia only the primary district assessors are charged with this duty.

many other states serve as members of their local review boards.<sup>4</sup> South Carolina and Michigan assessors are members of county equalization boards. The assessors of nearly one-third of the states extend taxes on their rolls;<sup>5</sup> and some of these, especially when equipped with machines for writing the rolls, also prepare tax bills.

Few assessors are required to go beyond this stage in the property taxing process. There are, however, instances in which the assessor is also the tax collector, as in Texas, where the offices of tax assessor and collector in all counties and in most cities have been combined; in Florida, where a similar combination is common among cities but not among counties; in Georgia, where 65 counties have "tax commissioners" in lieu of "tax receivers" and tax collectors;<sup>6</sup> and in Illinois, where the treasurers of 17 counties are ex-officio assessors. Also, there is a group of western states<sup>7</sup> in which county assessors collect taxes on the personal property of taxpayers owning insufficient real property to secure their personal property taxes, and another group<sup>8</sup> in which the assessor is directed to make "jeopardy" collections of taxes on property which is about to be moved away, dissipated, or destroyed.

Many local assessors administer, or help to administer, revenues other than the property tax. Poll taxes, dog taxes, occupational license taxes, special assessments, motor vehicle registration taxes,<sup>9</sup> and even inheritance,<sup>10</sup> net income,<sup>11</sup> and gross

<sup>4</sup> See pp. 246-47.

<sup>5</sup> This is a statutory duty of the assessor in Alabama, Colorado, Florida, Maine, Michigan, New Jersey, Oklahoma, Oregon, Rhode Island, Texas, Washington, and Wyoming.

<sup>6</sup> The office of county "tax receiver" in Georgia is not exactly comparable to any other county office elsewhere. The powers and duties of the office are more restricted than those of the usual assessor's office, while the powers and duties of the county "board of tax assessors" are somewhat broader than those of the usual board of review. It has nevertheless been concluded, largely as the result of a comparison with the situation in Alabama, that the tax receiver should be considered the assessor and the board of tax assessors the board of review.

<sup>7</sup> Arizona, California, Idaho, Nevada, and Utah.

<sup>8</sup> New Mexico and Oregon.

<sup>9</sup> In Arizona, Idaho, Nevada, and Texas.

<sup>10</sup> In Indiana (county, not township, assessors) and Ohio (county auditors).

<sup>11</sup> In Missouri and Virginia (commissioners of revenue).

income taxes<sup>12</sup> are the most important of these revenues. The first three taxes in this list are very frequently both assessed and collected by property tax assessors; the fourth is handled by property tax assessors in a relatively small number of city assessment districts; and the remaining taxes, in each instance, are administered in conjunction with a state agency.

The duties of local assessors outside the revenue field are not numerous. In at least 16 states<sup>13</sup> they compile crop statistics; in at least 5 states<sup>14</sup> they make up lists of eligible voters; and they occasionally make personal enumerations of other types. A few Missouri county assessors and Virginia commissioners of revenue issue building permits.

Most of the duties thus far mentioned have been assigned in so many words to the assessor's office. However, they may devolve upon that office in either of two other ways, examples of which have already appeared in the paragraph dealing with property tax collection: (1) The assessor can be given an ex-officio duty (or, what is more common, some other officer can be made ex-officio assessor); (2) another office can be consolidated with the office of the assessor. In the first case there is at least an initial tendency to insulate the assessment organization and personnel from that devoted to the performance of the ex-officio duty, but as time goes on the distinction between ex-officio office-holding and consolidation of offices tends to break down and perhaps completely disappear.

There are, altogether, about 5700 primary assessment districts in which the office of assessor, under direction or explicit sanction of state laws, has been combined with some other office or offices by one or the other of the processes just described.<sup>15</sup> The office most frequently so combined is that of

<sup>12</sup> In Arizona.

<sup>13</sup> Arizona, Illinois, Indiana, Iowa, Kansas, Maine, Minnesota, Missouri, Montana, New Mexico, Nebraska, North Dakota, Oklahoma, South Dakota, Tennessee, Vermont, and Wisconsin.

<sup>14</sup> Maine, Massachusetts, Pennsylvania, South Dakota, and Wyoming.

<sup>15</sup> In addition, there is an unknown number of cases in which an assessor holds some other office simply because the law does not make the two offices incompatible.

chief executive or member of the executive board of the governmental unit serving as the assessment district. In descending order of frequency, clerks, finance officers (tax collectors, treasurers, and finance directors), accounting officers (auditors and accountants), peace officers, registers of deeds, and surveyors account for the other combinations. (See Table 21, page 383.)

It would be virtually impossible to enumerate or identify the office combinations occurring in overlapping assessment districts. The following quotation from an article by the director of the Bureau of Municipal Research at the University of Texas describes a situation which is perhaps extreme but is certainly not far different from that to be found in several other states with overlapping districts:<sup>16</sup>

. . . In Texas there are only four instances of cities in which the assessor has no other office. In eighty-eight cases he is assessor and collector. In no less than 120 instances the assessor also serves the city as tax collector, city secretary, and treasurer. In a few rare instances the assessing function is assigned to one who already holds as many as eight offices. Cities are found to combine their assessment function with other municipal offices in as many as seventy different ways.

### THE DEPARTMENT HEAD

The most apparent aspect of departmental organization is the position or group of positions in which ultimate responsibility for performance of duties and authority for direction of subordinates are lodged. An assessing department is usually headed either by an individual designated as the assessor or by a group of persons designated collectively as a board of assessors.

The number of assessment offices headed by single assessors far exceeds the number headed by boards. In fact, as Figure 3 indicates, there are only about a score of local assessment boards in the states west of the Appalachian Mountains and none west of the Mississippi River. There are approxi-

<sup>16</sup> Stuart MacCorkle, "Suggested Assessment Reforms," *Texas Municipalities* (1939) v. 26, p. 7.

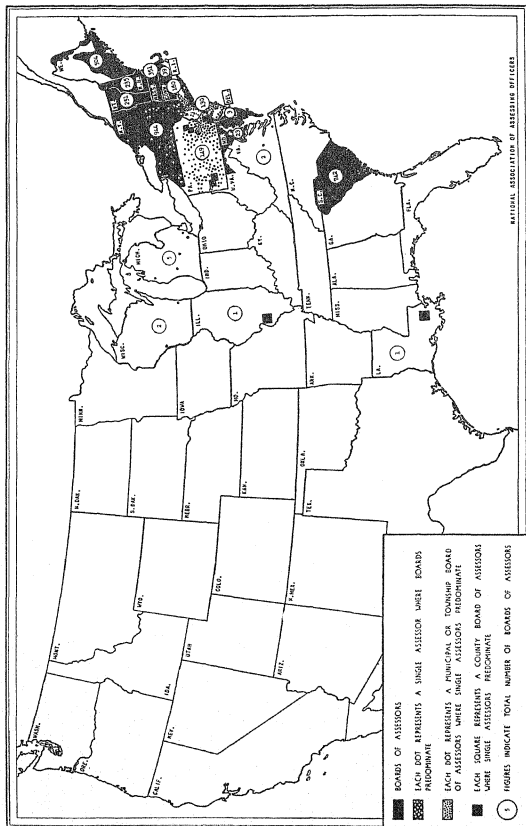


FIGURE 3. BOARDS OF ASSESSORS IN PRIMARY LOCAL ASSESSMENT DISTRICTS

mately 22,800 primary districts and perhaps 3000 active overlapping districts served by single assessors, as compared with an estimated 3543 primary districts and less than 1000 active overlapping districts served by boards of assessors.

Table 22 (page 384) shows the number and size of assessment boards among the primary assessment districts of the several states.<sup>17</sup> Nearly 95 per cent of such boards have three members. Schenectady is the largest of over 60 districts having two-member boards. Nassau County (N.Y.), St. Clair County (Ill.), and the cities of Boston, Hartford, and New Haven are the largest of 50 districts with five-member boards. New Castle County (Del.) and the cities of Detroit and Utica are the largest of 35 districts having boards of four. New York, Philadelphia, New Orleans, Allegheny County (Pa.) and a few small districts have boards of seven. Charleston County (S.C.) has a board of eight; Elizabeth, New Jersey, has a board of 13;<sup>18</sup> and Milwaukee has a board of 27. The doubtful honor of having the largest board of assessors in the country—51 members—would seem to belong to a school district in Horry County, South Carolina, but it is reported that practice does not conform with the law at this point.<sup>19</sup>

The laws under which boards of assessors have been created usually confer equal authority on all members. Each is required to sign the assessment roll, and decisions are presumably reached by majority vote. It is common practice for one of the members to serve as permanent chairman either by designation on appointment or by agreement of the other members of the board; but the chairman has few preroga-

<sup>17</sup> No similar tabulation has been attempted for overlapping districts. It is believed, however, that such boards are found only in the following states: Alabama, Connecticut, Delaware, Florida (city of Sebring), Georgia, Michigan (village of Grosse Pointe), Missouri (cities of Springfield and Joplin), New York, Tennessee, and Virginia (temporary boards).

<sup>18</sup> This, we are informed, is the present size of the board, although an act passed in 1938 (ch. 324) was apparently intended to reduce the membership to six.

<sup>19</sup> According to County Auditor H. B. Brown, assessors throughout the county operate in groups of two and three, although Act No. 910 of 1938 seems to prescribe fewer boards with larger memberships.



tives aside from the privilege of presiding at formal meetings. Sometimes the chairmanship is awarded for especially meritorious service, but more frequently it is acquired by seniority or is passed around among board members as a matter of courtesy.

There are a few outstanding exceptions to the rule that the chairman is on a legal parity with other board members. The New York City, Washington, D. C., and Milwaukee boards exemplify these exceptions. The President of the New York City Tax Commission is directed to assign duties to the other commissioners (in addition to the charter duty of reviewing and correcting assessments); and he appoints assessors, assigns them to districts within the city, and directs them in their work.<sup>20</sup> The District Assessor in Washington, D. C., is responsible for the preparation of the assessment and tax rolls, designates certain members of the Board of Assistant Assessors to serve as personal property appraisers and others to serve as real property appraisers, assigns duties to those employees assisting the personal property appraisers, and generally directs and supervises the assessment of personalty.<sup>21</sup> The Milwaukee Tax Commissioner divides the city into districts with the approval of the council; appoints an assessor to each district, who, by reason of such appointment, becomes a member of the Board of Assessors; suspends assessors and institutes proceedings for the removal of those guilty of neglect of duty, incompetence, drunkenness, or intentional insubordination; and appoints committees of assessors to make investigations and perform such other duties as he may prescribe.<sup>22</sup> The duties enumerated in this paragraph are, in each instance, in addition to the duty of presiding over the board of assessors in sessions devoted to the review of valuations turned in by individual assessors.

<sup>20</sup> *Charter of the City of New York*, secs. 154-155.

<sup>21</sup> *District of Columbia Code, 1929*, Title 20, secs. 691, 694, 751, 770; *Acts of 1938*, P. A. 519.

<sup>22</sup> *Wisconsin Statutes*, sec. 70.07.

Chairmen of boards of assessors who have special legal authority usually receive higher salaries than their colleagues. But this situation is found in numerous other districts as well, indicating that many chairmen are expected to devote more time to the work or to assume a position of leadership in the management of the office. In fact, out of a group of 112 boards of assessors for which 1940 compensation data have been collected, there are 42 cases in which the chairman receives more than other members and 5 cases in which some member other than the chairman—usually designated as the secretary—receives more than his colleagues.

### SUBORDINATE POSITIONS

Probably a majority of the local assessing departments in the United States are composed of a department head and no one else. In the remaining departments there are anywhere from one to nearly a thousand subordinates. The number of these subordinates is variously determined by the state legislature, the legislative body or chief executive of the assessment district, the assessor himself, or even the state tax department.<sup>23</sup> As a general rule, the appropriating agency of the governmental unit or units financing the assessment function will exercise indirect, if not direct, control over the number of subordinates.

Generally speaking, each subordinate employee occupies a single subordinate position in the departmental organization, and it is therefore fair to assume that determination of the number of subordinates substantially determines the number of positions under the direction of the department head. However, an employee should not be confused with a position, and it is positions with which the organizer deals in the first instance. A position is properly characterized by the duties

<sup>23</sup> For laws authorizing determination of the number of subordinates by the state tax department, see *Colorado Statutes, 1935*, sec. 8820; *Carroll's Kentucky Statutes*, sec. 4042a3; *Baldwin's Ohio Code*, sec. 5548.

and responsibilities which are assigned to it and not by the particular employee, if any, who fills it.<sup>24</sup>

The types of subordinate positions in local assessing departments, as distinguished from their number, are seldom determined by state legislatures. This is as it should be, for any one of the other agencies determining the number of subordinates, and particularly the assessor himself, is in a better position than the state legislature to make proper decisions in this field. In fact, the accepted concept of the department head's function demands that he be given the authority to assign duties and responsibilities and thereby to determine types of positions.

The division of work among the positions within most public offices may be described broadly as geographical or functional. In geographical division of labor, all persons do the same job but do it in different places; in functional division, each person does a different job. The assignment of the duty of assessing all property in each of six city wards to six deputy assessors illustrates geographical division of labor; and the assignment of buildings to one deputy, land to another, and personal property to a third illustrates functional division of labor.

Division of labor in assessing departments is seldom purely geographical. Such a division would require that every one of the assessor's subordinates be assigned a certain territory and do all of the work pertaining to that territory, including discovery of all taxable property, appraisal, and preparation of assessment and tax rolls, and would be substantially equivalent to the creation of a separate assessment district out of each such territory. But many departments show considerable tendency toward this extreme. There are four circumstances which seem to foster such a tendency: (1) a small variety of tasks for which the assessor's office is responsible; (2) a large area within the assessment district, especially when

<sup>24</sup> Leonard D. White, *Introduction to the Study of Public Administration*, The Macmillan Company, New York, 1939, p. 330.

associated with relatively low land values; (3) a relatively recent change from township to county assessment districts; and (4) an office headed by a board of assessors rather than a single assessor. Extensive geographical division of labor in New York, where all personal property is exempt, and in Pennsylvania, where all tangible personalty is exempt, may be explained largely by reference to the first of these circumstances, although the organization in several of the larger Pennsylvania counties is also affected by the third. The second circumstance probably explains laws in Colorado, Florida, Nevada, and Wyoming requiring that any deputy assessors allowed by the county commissioners be assigned to districts laid out by the commissioners. The Ramsey County, Minnesota, organization well illustrates the third cause of geographical division of labor, although the transfer of the assessment function from the townships to the county can hardly be characterized as recent in this case; and Milwaukee, New Orleans, and Detroit exemplify the geographical organization pattern which is likely to result from a multiple-headed administration.

A purely functional division of labor, in which no two persons do exactly the same type of work is perhaps as anomalous as a purely geographical division. However, there are a great many assessment departments in which a large proportion of the employees specialize in a particular branch of assessment work. There may be one person who does nothing but keep track of property transfers, a draftsman who works constantly on the tax maps, an appraiser of merchandise, a building appraiser, a land appraiser, etc., each performing his assigned task throughout the whole area of the assessment district. This sort of organization is most likely to be found in assessment districts with large populations, small areas, and high assessed valuations per square mile.

Between the two extremes of completely geographical and completely functional division of labor lies the vast majority of departments, in which the work is divided both geographi-

cally and functionally. This typical situation may be illustrated very simply by a department composed of an assessor, two clerks, and four appraisers. The assignment of clerical work to one group of employees and appraisal work to another is a functional division of labor. If two of the appraisers are given the task of discovering and valuing personal property while the other two are assigned to real estate, this represents a further functional division. But, if one of the two real estate appraisers handles one part of the assessment district, leaving the other part to his colleague, we have here a geographical division of labor. Even this geographical division may have a functional flavor to it, however, since it is often possible to divide an assessment district in such manner that the majority of properties in one section differ from the majority of those in another.

#### DEPARTMENTAL DIVISIONS

The internal organization of a small assessment office has been fully described once the nature of its top position or positions and the allocation of departmental duties among subordinates have been covered. But in departments employing more than ten or a dozen persons there is usually some more or less formal grouping of employees into two or more divisions, each headed by a supervisor who is responsible for the work of his division and who exercises considerable authority over those occupying positions in the division.

The divisions of a governmental department are frequently classified as "operating" and "auxiliary."<sup>25</sup> The operating divisions are those which are directly engaged in the performance of the functions for which the department was created. The auxiliary divisions are only indirectly engaged in

<sup>25</sup> The operating divisions are sometimes called "line" divisions, while the auxiliary divisions are called "staff" divisions. There is, however, much confusion over these terms, and it would seem desirable to substitute the terms appearing in the text. (Compare Leonard D. White, *op. cit.*, pp. 40-43.) Incidentally, departments as well as divisions may be classified as operating and auxiliary; and, in such a classification, the assessing department would be placed in the latter category.

the performance of these functions; their primary purpose is to assist the operating divisions by taking over such tasks as personnel recruitment, accounting, purchasing, filing, typing, mail and messenger service, reception of visitors, etc. Auxiliary divisions are said to perform the "housekeeping" functions, and the operating divisions might be said to be the "bread-winners."

It is, of course, not essential that a particular department have auxiliary divisions. They may be dispensed with by either of two methods: Each operating division can "keep house" for itself, or all of the different departments within the administrative branch of a governmental unit may be served by the same housekeeper (or the same group of housekeepers). As a rule, some combination of these two methods is adopted, and any employees of the assessing department who may be performing auxiliary services outside the operating divisions are supervised directly by the assessor or a chief deputy. Fully developed auxiliary divisions with full-time directors are commonly found only in the largest departments.

The operating divisions of assessment offices, like subordinate positions, are commonly laid out in either geographical or functional patterns. Figure 4 is a hypothetical organization

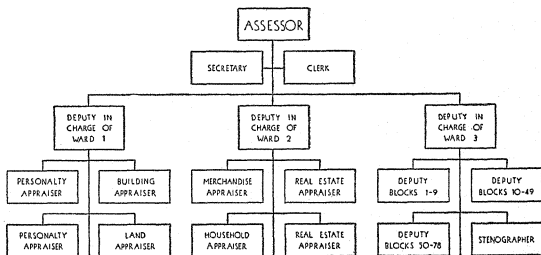


FIGURE 4. ORGANIZATION CHART OF AN ASSESSMENT DEPARTMENT WITH GEOGRAPHICAL DIVISIONS

chart for a city assessment department having a separate division for each of three wards, illustrating the grouping of employees into geographical divisions. Figure 5, on the other hand, illustrates the grouping of employees into two functional operating divisions and an auxiliary division.

Although it might seem that a functional division of labor among subordinates would commit a department to a functional grouping of subordinates into divisions, such is not the case. Note that in Figure 4 the assessment work in Ward 1 is divided functionally even though the department has the geographical pattern of divisions. Similarly, an office having functional major divisions, may have geographical division of labor among the rank and file employees. This merely illustrates the previously noted fact that division of labor is seldom either purely functional or purely geographical.

Most assessors in the United States whose departments are large enough to warrant the creation of divisions have chosen

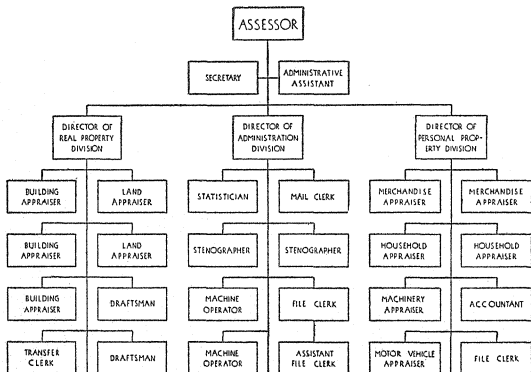


FIGURE 5. ORGANIZATION CHART OF AN ASSESSMENT DEPARTMENT WITH FUNCTIONAL DIVISIONS

a functional pattern. The San Francisco office, for example, has three major divisions—Valuation, Public Service and Information, and Administration—the first of which is subdivided into Building, Land, Personal Property, and Marine sections. San Diego County has a somewhat more elaborate classification into Land, Buildings, Personal Property, Engineering, Auditing, Correspondence, and Cashier divisions.<sup>26</sup> Multnomah County, Oregon, has four major divisions—Land Appraisal, Building Appraisal, Personal Property, and Clerical. The Cook County office has four divisions—Personal Property, Real Property, Administrative Service, and Executive; and the New York City department has six—Ordinary Real Estate, Real Estate of Utility Corporations, Surveying, Research, Chief Clerk's, and Certiorari.<sup>27</sup> The Los Angeles County office has sixteen different functional divisions.

#### STAFF OFFICERS AND CHIEF DEPUTIES

The manager of any sizeable organization needs to surround himself with a group of managerial aides, sometimes referred to as a "cabinet" but more often designated as an "advisory staff" or simply as a "staff." These persons may hold full-time advisory positions, or they may devote their major time to some other position within the organization, such as the heading up of an operating or auxiliary division. Full-time staff officers might include the department's legal counsel, personnel officer, research director, administrative assistant, or confidential secretary. Few assessing departments are large enough, however, to have more than one or two persons devoting full time to the duties indicated by these titles.

The duties of a member of the advisory staff are, as the name of the agency indicates, simply advisory. A staff officer

<sup>26</sup> It will be recalled that California assessors collect unsecured property taxes (see p. 119); hence the cashier and auditing divisions.

<sup>27</sup> The New York office is primarily divided into bureaus. The Bureau of Ordinary Real Estate is in turn broken into five divisions, one for each borough. The Certiorari Bureau handles assessment appeals which have reached the courts.



performs some services for the divisions and maintains liaison between the division directors and the head of the department, but he lacks authority over such directors and can issue orders only in the name of the department head or his chief deputy. The position of such an officer in the departmental organization is illustrated in Figure 5.

The "chief deputy" referred to in the preceding paragraph is a position found in numerous assessing departments either under that title or under the synonymous titles, "assistant assessor" or "chief assistant assessor." In some cases such a title may indicate seniority or higher compensation without greater authority. In other cases it means that the person filling the position has special authority only in the absence or incapacity of the assessor; some person who is normally a division head or staff officer having equal rank with other division heads or members of the staff becomes "acting assessor" on infrequent occasions. But where usage is more exact, the chief deputy or assistant assessor is regularly in active command of the whole office, or at least of all the operating divisions, subject, of course, to the final authority of the assessor himself. It is his duty to take over the task of day-to-day control of the office and supervision of division directors, thus freeing the assessor for public relations work, administrative planning, and other activities which have first claim upon the time of a department head.

The position of a chief deputy in the hierarchy of a department is illustrated in Figure 6. Note that he is interposed between the assessor and his division heads (or between the

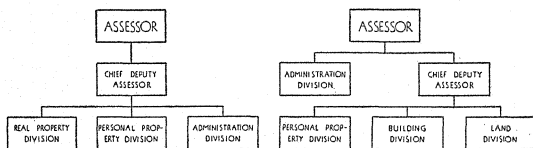


FIGURE 6. ILLUSTRATING THE POSITION OF A CHIEF DEPUTY IN THE ASSESSMENT ORGANIZATION

assessor and the heads of all operating divisions). This indicates that he has authority to issue orders to division heads and responsibility for coordination of departmental activities. The assessor's orders to his division heads are normally transmitted and enforced by his chief deputy.

## RECOMMENDATIONS

**1. *The various activities required of the assessing department should be assigned in writing to appropriate positions in such manner as to facilitate the employment of persons with special skills and aptitudes, to develop in employees additional skills peculiar to assessment work, and to economize on the more expensive skills.***

The first step in any organization or reorganization of a department is an analysis of the activities appropriate to the department. The organizer of an assessment office needs to familiarize himself with all of the state laws, local ordinances, and executive orders imposing duties upon the office, and, assuming that the office is already in operation, to supplement this information with a study of what is being done by each of the present employees. In the course of the investigation, a detailed list or outline of departmental activities should be prepared. This list should not consist of such broad categories as "Prepare and maintain tax maps," but rather of detailed statements of activities, such as "Examine land records and abstract deeds," "Correct tax maps for changes in property lines," "Reproduce tax maps for use by field men." The list is intended to identify each activity requiring a special skill. Care should also be taken to identify activities which must be carried on at particular times or, in the case of work done outside the office, at particular places.

In addition to identifying different activities, the organizer must be informed of the amount of time required for each task and the proper sequence of tasks from the moment information concerning taxable property comes into possession of the department until the assessment roll is completed.

Production charts, which show the period during which a certain task is expected to be completed and the progress actually being made, and flow charts, which show the movement of materials and data from one employee to the next, are helpful aids in visualizing the timing and sequence of activities.

The next step is the assignment, in writing, of each activity to one or more positions. An activity which requires the full time of a single person will normally be assigned to a single position; an activity which requires the full time of more than one person will necessarily be assigned to more than one position; and an activity which requires less than the full time of one person will usually be but one of several tasks assigned to a single position. The purpose of making a simple statement of the duties accompanying each position is not only to assist in the organization process, but also to give every employee a clear picture of his contribution to the ultimate objective of the department and thus to simplify the task of supervising his activities and coordinating them with the activities of other employees.

The grouping of tasks for assignment to a particular position is one of the fine arts of management. Several principles, of which the following seem to be the most important, should be observed in practice:

1. The several activities assigned to one position should require skills which are on approximately the same economic level. For example, typing work and appraisal work should not be assigned to the same position, since a typist can be hired, say, for \$100 a month but an appraiser can perhaps be secured for no less than \$300 a month; but appraisal of real estate and field audit of business personal property tax returns might be combined because appraisers and auditors can both be hired for \$300.

2. The various tasks assigned to a single position ought to call for skills which are inherently similar or are commonly associated in vocational courses or in occupational experience. The combination of appraisal and auditing work just sug-

gested is not particularly acceptable on this score. On the other hand, the combination of simple bookkeeping with typing work is acceptable, not only because a bookkeeper and typist are on much the same economic level but also because many persons have had academic training or professional experience in both fields.

3. The major activities assigned to a single position should call for a similar type of supervision, since supervision is normally performed by a person with authority to direct those whom he supervises and each position should be subject to direction by only one person. This need not preclude "advisory supervision" by some other person who lacks the authority to give orders to those whom he advises, but such supervision should apply to a relatively small segment of the employee's regular work.

4. All activities assigned to one position should preferably be performed in a single place or a single neighborhood in order to avoid the expense of moving from one place to another between jobs. Where movement from one job to another is inevitable, as in assessment field work, the activities of a single day should be concentrated in a relatively small area and major movements should be made, as far as possible, at the beginning of a new work day.

5. Tasks which are sequential may often be advantageously combined in order to avoid a situation in which one person is idle because someone at an earlier point in the flow of work has held up production. On the other hand, it is sometimes advisable to break the sequence as a means of checking the accuracy and honesty of a particular employee. Thus, the person collecting money should not account for its collection, even though the two tasks are sequential.

6. The assignment of activities ought not to ignore completely the qualifications of personnel already in the department. While it is a mistake to bend an organization entirely out of shape to accommodate it to one or two employees with peculiar qualifications, it is usually possible to effect some

compromises without an appreciable loss in efficiency and with a beneficial effect upon employee morale.

7. The various activities assigned to any one position ought ordinarily to require the full time of one person for the whole working year or for that part of the working year in which the activities are carried on. While it is perfectly proper for one person to fill two part-time positions, a situation in which the two positions are occupied *concurrently* or, say, on alternate days or weeks is likely to lead to confusion and disruption of work schedules.

Of course all of these objectives cannot always be attained. The small size of most assessment offices, the seasonal character of the work, and the combination of field and office activities contribute to the difficulty of attaining them simultaneously. In particular, the second objective, which calls for functional division of labor, and the fourth, which calls for geographical division, are likely to conflict in the assignment of activities which are carried on in the field. This conflict is important enough to warrant an examination of the merits of both types of division of labor.

The great virtue of geographical division of field work is its economy in time and travel expense. At least some of the time of a field man is spent going to and from the field and between jobs in the field. This time is sheer waste. With functional division of labor in the field, more than one person must cover the territory, and this multiplies the waste of time while frequently adding substantially to travel expenses. For this reason, geographical division of field work, *provided the various activities assigned to field men are on the same economic level*, is often less expensive than functional division of such work.

This saving appears particularly great if the assessment district is large and each deputy resides and works in the area assigned him without reporting at the central office each day. But the economy of this practice is more apparent than real. For one thing, it is bad practice to make residence in such small

areas a prerequisite to employment, and it is often unfair to employees to make it a post-requisite. Furthermore, in such an organization there is little opportunity to test the quantity and quality of work performed in the field and to take proper care of assessment records.<sup>28</sup> But even though deputies are selected at large and report to their supervisor at the central office once or twice a day, a geographical division of work may save much time in getting to and from jobs. Such an organization is particularly suited to rural sections where population is sparse and soil conditions and types of farming are similar over large areas.

A common argument for geographical division of such appraisal work as is done in the field is that a person operating year after year within a small area will be more capable of appraising it than one whose work is spread over the whole assessment district.<sup>29</sup> The weight of this argument depends largely on the size of the assessment district. In a city with half a million parcels of real property or in a county with an area of several thousand square miles, certainly the work of appraising *land* ought to be divided geographically. The case is not so strong for geographical division of *improvement* appraisal work but is still substantial since, under exceptional circumstances, identical improvements can have quite different values when located in different places. When it comes to personal property, there is very little left of the argument, for the value of such property is scarcely dependent upon its location, and an appraiser who can value it in one part of the assessment district can value it with the same facility elsewhere.

The other major aspect of assessment field work is the discovery of property. Here, too, the advantage of a geographical division of work varies with the type of property. The dis-

<sup>28</sup> It is assumed that there is but one assessment office in each assessment district and that working out of a residence is the only alternative to working out of a central office. New York City, Los Angeles County, and a few other large assessment districts have branch offices, but this is not generally feasible.

<sup>29</sup> Rochester Bureau of Municipal Research, Inc., *The Organization and Methods of the Department of Assessment in Rochester, New York*, 1937, p. 77.

covery of real estate, given a suitable set of maps and other records, is simple enough whatever the division of labor. Familiarity with a locality is of somewhat greater advantage in the discovery of tangible personal property; but such property is usually discovered and appraised coincidentally,<sup>30</sup> so that familiarity with a locality is less important, in the final analysis, than familiarity with a type of property. Thus the advantage of geographical division of this particular aspect of assessment work must be sought principally in the field of intangible property taxation. Here familiarity with persons is helpful, and such familiarity can probably best be achieved by one whose work is confined to a small area.

Against these claims on behalf of geographical division of the field work in an assessment office must be set the great virtue of functional division of labor: It ordinarily gets things done better and more cheaply. With functional division of labor, persons can be hired because they have special qualifications for the job. In the course of their employment they become increasingly more skilled because of their specialization on a particular task. And, perhaps most important of all, this type of organization permits the economy of expensive skills. A person who has the ability to appraise property accurately demands an appraiser's salary whether he is estimating the amount of obsolescence on a building, computing the building's cubic contents, or running errands for the assessor. It is therefore wasteful to have him devote his time to tasks which can be satisfactorily performed by a person whose skills command a lower price in the labor market. Perhaps the most distinctive characteristics of a well organized office are the reduction of regular operations, as far as possible, to a routine, the assignment of simple operations to employees in the lower salary brackets, and the reservation of only the more technical tasks for the higher paid personnel.

There is still another advantage of functional division of

<sup>30</sup> Thus the goods on a merchant's shelves are not itemized and individually priced, but instead the stock is appraised as a whole.

labor: It is conducive to an impersonal and nonpartisan assessment. An appraiser who lives and works in a particular part of the assessment district, and even one who works in one part and lives in another, tends to develop relationships with particular taxpayers which are likely to be more intimate than those of an appraiser who is concerned with but one of several classes of property and who values this class throughout the assessment district. Thus the temptation to shade assessments below the established level is probably stronger with the appraiser of an area than with the appraiser of a class of property. And of course whenever this temptation is yielded to, disparity is inevitable. There is the further fact that political parties are organized geographically; and, as Gulick puts it, "an administrative system set up by areas is peculiarly subject to spoliation by politicians as long as we have the spoils system."<sup>31</sup> For these reasons, we are of the opinion that the inequalities between districts which are likely to result from geographical division of labor are more serious than the inequalities between different classes of property which are likely to result from functional division.

**2. Positions should be grouped into homogeneous operating units, each headed by a technically skilled supervisor. The type of work, area of operations, and number of subordinates assigned each unit should be such as to permit effective supervision by its director, and as many levels of supervision should be established as may be necessary to assure complete co-ordination of departmental activities.**

An assessor who is in charge of only three or four employees will be fully capable of supervising them himself without giving any one of them authority over any other. However, as the number of employees increases, and certainly as it begins to exceed ten or twelve, there is need for some delegation of authority and responsibility to subordinate supervisors. For it is a fundamental principle of management that a limited

<sup>31</sup> "Notes on the Theory of Organization," in *Papers on the Science of Administration*, edited by Luther Gulick and L. Urwick, Institute of Public Administration, New York, 1937, p. 7.



number of persons should report to, and take orders from, any one supervisor. This principle holds good whether the supervisor is the manager of a city, the head of a department, the director of a division, or the leader of a field squad. As the number of subordinates grows larger, the supervisor knows progressively less about the quantity and quality of work output, and eventually it clearly exceeds what is known as his "span of control."

Various writers have speculated on the span of control; some have placed it as low as three, others as high as ten or twelve. But such speculation is largely idle. The number of employees who can be adequately supervised by one person varies with the diversity of the work performed, the complexity of the processes involved, the degree to which the work can be routinized, and the area of operations.<sup>32</sup> And of course it depends, too, upon the capacity and managerial talent of the supervisor and the experience and competence of his subordinates.

Frequently, the span of control tends to contract as we proceed upward from employees in the lower ranks to the department head. This is due largely to the routine character of the work done by the former. The work of writing the assessment roll, for example, can readily be checked for both quality and quantity and requires a minimum of planning and preliminary instruction; hence a large number of persons may perform this task under a single supervisor. But the supervisor of the building appraisal function should have a smaller number of immediate subordinates, since his work will involve, among other things, an office review of the classification of each building as it is first appraised and frequent spot checks in the field to assure the accuracy of the appraisal data recorded by the field men. The assessor himself will ordinarily have a still smaller number of immediate subordinates, for his task of supervising the directors of the several divisions within the department not only covers a broader field

<sup>32</sup> Luther Gulick, *op. cit.*, pp. 8-9.

of activities but permits only a limited degree of routinization.

The grouping of operators under supervisors assures fairly close supervision of employees and relieves the assessor of a great deal of routine work. It serves the further purpose of injecting into the organization persons who, though lacking the versatility of a good department head, have special knowledge of particular phases of the department's work. Thus the assessor is able to secure specialization in his supervisors as well as in the lower ranks of employment and can rely upon these supervisors for expert advice on questions of procedure and expert appraisal of the work performed by their subordinates.

There may be any number of levels of supervision between the assessor and a particular employee at the bottom of the hierarchy, and the number of levels may vary in different parts of the department. In the building appraisal division, for example, there may be a three-man field crew which gathers and records descriptive data on each new building. A person who combines the function of a supervisor and an operator may be responsible for the work of the other two members of the crew and for the personal interview with the occupant. There are, then, two supervisors between the subordinate field crew members and the assessor, that is, the crew leader and the head of the building appraisal division; but other operators in the division, including the crew leader himself, are perhaps separated from the assessor only by the head of the division.

Our recommendation calls for the grouping of positions into "homogeneous" operating units. There are various criteria of homogeneity, five of which are fairly common. Positions may be grouped because the activities assigned them (1) serve the same major purpose, (2) deal with or serve the same persons, (3) operate on or with the same materials, (4) involve the same or similar processes or skills, or (5) are carried on at the same place or within the same area.<sup>33</sup> Al-

<sup>33</sup> Compare Gulick, *op. cit.*, p. 15.

though it is possible to organize an assessing department along any of these lines, only the last two are sufficiently common and well adapted to the needs of such a department to require discussion.

The grouping of positions according to process corresponds to the functional division of labor previously described, while grouping by area is the counterpart of geographical division of labor. The only real difference is that the previous discussion was concerned with the division of labor among rank and file employees whereas the present discussion relates to the division of the supervisory work among heads of divisions. Although governed by the same general principles, it is conceivable that the maximum efficiency would be realized by dividing the supervisory work, say, geographically, while making a functional division of the work below the supervisory level as illustrated in Figure 4, page 129.

In general, the grouping of employees into divisions according to the place at, or the area within, which they work is undesirable in local assessment departments. When positions involving a common process are grouped together, the director of the division will naturally be someone skilled in that process; when positions are grouped by area, the director of one division will naturally be someone particularly familiar with that area. And familiarity with a process is more important in the administration of a local assessing department than familiarity with an area. Furthermore, the grouping of positions by process permits a more extensive specialization of subordinate positions. A medium-sized assessment department might be able to afford one appraiser of industrial buildings if he could operate throughout the assessment district; but if the department were divided geographically, there would be needed as many industrial building appraisers as there were geographical divisions containing industrial plants, even though none of the divisions had enough plants to keep its appraiser fully occupied on this type of property. For this reason, a grouping of positions into divisions accord-

ing to areas of operation can be recommended only for very large local assessment districts.

**3. *Lines of authority and responsibility should be clearly defined so that each person knows for what subordinates he is responsible and what supervisor has authority over him, and no responsibility should be delegated to a supervisor without commensurate authority.***

Few things can demoralize an office more quickly than confused or unrespected lines of authority and responsibility. Sometimes confusion arises from a faulty organization pattern, as when a single position is made responsible to two coordinate superiors, or when a person attempts simultaneously to occupy two or more positions in as many divisions of the office. Again, it may simply result from the failure of employees to understand an organization which is fundamentally sound but has been inadequately explained. The failure to respect recognized lines of authority and responsibility is, of course, a lesser evil but one toward which an administrator should not be too tolerant.

It is not essential that a formal organization pattern be rigidly adhered to under all circumstances. There are times, for example, when the assessor may properly issue orders directly to an employee who is immediately responsible to the director of a division. But to do so constantly or even frequently will undermine the authority of the division director and will lower his morale if not that of the subordinate employee. The same thing can be said for the reverse situation, in which an operating employee reports directly to the assessor rather than to his immediate superior. As a matter of regular routine, all orders which go from the assessor to the operating personnel should pass through the hands of the intermediate supervisors, and all reports by the operating personnel should be made to their supervisors and not to the assessor himself.

Another sort of short-circuiting process is involved in the attempt of one employee to exercise authority which has not been delegated to him. An appraiser in the building appraisal

division may be drawing a salary of \$3500, but this gives him no authority over a \$1200 stenographer in the personal property division. It may be that a tactful suggestion can be made to the stenographer which will be as effective as a command, but any orders must come from someone to whom the stenographer is subordinate. The appraiser's request or complaint may have to be made to his own supervisor and passed on up the line to the assessor himself before reaching a person to whom both the appraiser and the stenographer are subordinate. Similarly, the director of an auxiliary division, although performing work for an operating division and perhaps offering advice to the director or the subordinates in the latter division, should respect lines of authority by refraining from any attempt to issue orders to persons outside his own division.

As important as the rule that lines of authority and responsibility should be clearly defined and respected is the principle that no responsibility should be delegated or assumed without a commensurate degree of authority. No one knows just what is meant by "commensurate authority"; but, like the "span of control," it is a useful concept despite its vagueness. Ordinarily, a supervisor is authorized to make work assignments to available personnel, to make technical decisions concerning minor matters of procedure, to decide major procedural questions subject to the review and approval of the assessor, and to transmit and interpret to his subordinates orders issued by the assessor or some other superior. A supervisor who lacks this degree of authority cannot fairly be held responsible for the performance of the duties assigned to his operating unit.

***4. Final authority and responsibility should ordinarily be vested in a single assessor rather than a board of assessors. Where there is a board, it should ordinarily have three members, one of whom should serve as the departmental administrator.***

Students of public administration have long discussed the advantages and disadvantages of single administrators and

administrative boards. Translated into terms appropriate to a discussion of assessment organization, the arguments advanced in favor of a board are as follows:

1. The average of several independent appraisals of a property is apt to be a better appraisal than any one of them. A decision of a board of assessors, when reached after consultation, is like such an average in that it usually represents a compromise between extreme viewpoints.

2. Board members are apt to have varied backgrounds of training and experience. One member may be strong in respects in which another is weak. If the board defers in each question to the member best qualified to answer it, decisions are likely to be superior to those of a single administrator.

3. A majority of the members of a board are experienced at all times if terms are staggered. On the other hand, a single administrator is almost necessarily inexperienced in some aspects of his job upon taking office.

4. Staggering the terms of board members also assures a certain amount of continuity of policy. New records or procedures, for example, can be fully installed and given a trial period under a board, whereas they might be started by one administrator and dropped by his successor in the absence of a board.

5. Board membership can be made bipartisan. This affords some protection against a "political assessment," whereas a single administrator is subject to no such restraint. Or board members can be selected to represent various economic groups, such as the farmers, merchants, and home owners.

6. A board tends to reduce the turnover of subordinates. With a single assessor, there is likely to be a complete or heavy turnover of employees at the beginning of a new term of office, especially when the new assessor and his predecessor are of different political parties. This is not likely with a board which is bipartisan and whose members serve overlapping terms.

7. A fairly long term of office may often be secured for board members where it is politically impossible for single admin-

istrators. Suppose, for example, that a new mayor is elected every two years and that assessors are appointed by the mayor. With six-year overlapping terms, each mayor could appoint one member of a three-member board, whereas only one out of three mayors (unless reelected to office) could appoint a single assessor holding office for an equally long term.

8. The attitude of citizens toward their government can ordinarily be improved by giving representation on a board to various groups or "interests."

9. The vesting of administrative powers in a board prevents the concentration of too much power in any one person.

10. Because responsibility is diffused, it is sometimes possible for a board to carry out a program which is too enlightened or advanced to meet with popular support. Examples of such programs in the assessment field are a revaluation involving the correction of long-standing disparities or a general increase of assessed valuations to the level required by law.

The arguments in favor of a single-headed assessment department may be summarized in the following terms:

1. Such a department is less expensive. Each member of a board of assessors must ordinarily be paid a salary commensurate with his responsibilities. But the responsibility could easily be shouldered by a single person, and the work done by other members of the board could be performed by employees receiving lower salaries.

2. It gets things done. An organization which is administered by a single person can act more quickly and decisively than one which must await the concurrence of a majority of a board before pursuing a course of action. This also adds to the economy of the single-assessor plan.

3. It often creates a full-time job out of what would otherwise be several part-time jobs. For a given expenditure, a better assessment can be anticipated from one assessor working the year around than from three assessors working four months of the year.

4. It improves employee morale. Employees of a depart-

ment headed by a single administrator are directly or ultimately responsible to only one person, and there is less likelihood of conflicting orders, favoritism, jealousies, insubordination, and general lack of coordination of efforts than where employees are called upon "to serve more than one master."

5. It concentrates responsibility. A board is an impersonal body of shifting membership which fails to attract the public attention and enlist the public enthusiasm which are enjoyed by a successful single administrator. Praise or blame is distributed impartially over a board of assessors. Thus poor administrators whose weaknesses are concealed by the strength of their colleagues on a board are often kept in office, and good administrators whose achievements must be shared with others are often thrown out of office.

6. It attracts more capable administrators. The position of assessor is made less attractive when a candidate knows that administrative responsibility will be divided and that his decisions will be "watered down" by other members of the board.

7. It discourages appointment of mediocre administrators. Persons of inferior calibre are frequently appointed to boards with the notion that the other members, appointed by some one else, will compensate for them or share the blame for their failings. The sharing of blame is almost inevitable, but compensation for failings is not at all certain, especially if other board members have been appointed with the same notion.

8. It facilitates coordination. Board members, far from acting as a group to secure concerted judgment and protect the public at large against the bias or dishonesty of a single member, usually find it convenient, if not necessary, to divide the work into as many compartments as there are board members and give each member a relatively free rein within his compartment. This results in uncoordinated effort and lack of equalization in assessments, with little compensation in the form of better judgment and the protection of particular groups and interests.



9. It is conducive to nonpartisan administration. A board member appointed for the ostensible purpose of giving representation to a particular political party or section of the assessment district or economic group is apt to feel that he is supposed to secure advantages for those whom he represents as well as to prevent conflicting interests from securing advantages. This naturally results in bargaining and "log rolling" among board members on the one hand and animosity and distrust on the other. It is impossible for good administration to develop or long persist in such an atmosphere.

Out of these arguments and counterarguments have come some widely accepted conclusions. Stated very briefly, these conclusions are that a board is properly charged with a function whose conduct calls principally for deliberation, and that a single person is properly charged with a function whose conduct calls for action or for the direction of subordinate personnel. Thus agencies which have legislative or judicial functions to perform are logically headed by, or composed of, a board, while agencies whose task is predominantly administrative are logically headed by one individual.

Of course the demarcation between the administrative and legislative branches of government on the one hand and the administrative and judicial branches on the other is not precise despite our traditional "separation of powers." To the extent that an administrative agency engages in policy formation and in the issuance of rules and regulations it performs a legislative function; to the extent that it engages in the hearing and settlement of disputes occasioned by its own actions or by the actions of others it performs a judicial function. And the more it departs from purely administrative or "ministerial" activities, the less conclusive becomes the presumption in favor of a single administrator.

The assessment of a poll tax is a good example of a governmental function of a ministerial type. The legislature imposes the tax and in doing so determines and settles all major questions of policy, including the amount of tax, exemptions, the

due date, penalties for delinquency, and so on; no rules and regulations are ordinarily required for its administration; and liability for the tax, in the vast majority of cases, involves a set of facts over which there can be little dispute. But the assessment of a property tax is not so clearly ministerial. It is true that the state legislature determines major questions of policy, so that it can hardly be said that the head of the assessment department has the authority to engage, to any considerable extent, in legislative activities. But value is a matter of opinion, and its determination for tax purposes gives rise to many disputes. It is perhaps for this reason that many courts hold that the assessment of property taxes is a judicial or quasi-judicial function.

The extent to which local assessing departments engage in judicial activities depends greatly upon the organization for assessment review. In some states the assessor's authority to alter the rolls, except for the correction of clerical errors, lapses upon opening them to public inspection; in other states he may hear complaints and make adjustments during the inspection period and prior to the convention of the administrative review board; and in still others the assessing agency serves also as the administrative review agency. The justification for a board of assessors, which is almost nonexistent in the first group of states, is somewhat greater in the second group, and is fairly substantial in the third. But even in the last group, an appeal may be taken on all decisions of fact and law either to another administrative review agency or to a judicial review agency.<sup>35</sup> Especially where there exists a readily accessible local administrative review agency to which an assessor's decision may be appealed, and perhaps also where an appeal may be taken to a less accessible state agency or to a readily accessible local court, such judicial activities as the assessment depart-

<sup>35</sup> Delaware counties seem to constitute the principal, and possibly the only, exception to this rule, there being no provision for appealing findings of fact by the board of assessors after the board has heard objections to the original assessment.

ment engages in do not overcome the presumption in favor of a single administrative head.

If, however, a decision to create or retain a board of assessors is reached, a membership of three seems to be desirable. Much the same arguments that were advanced in favor of a single assessor rather than a board may be advanced in favor of a small board rather than a large one. While a two-member board is found in a few assessment districts (see Table 22, page 384), an odd, even though slightly larger, number of members is preferable as a precaution against the delays resulting from tie votes.

Whether required by law or not, each board should have a chairman, whose duty it is to preside over meetings and to serve as the official representative of the board. It is also considered desirable for each board to select one of its members, who may or may not be the chairman, to serve as the administrator, or executive director, of the department.<sup>36</sup> It would then be the administrator's duty to manage the department. This duty would involve organizing and directing departmental activities, handling problems of personnel, preparing and administering the departmental budget, and so on. All of the acts of the administrator would be subject to review by the board as a whole, but any changes demanded by the board would be carried into effect by the administrator.

Where extra-legal agreements of the sort just described are entered into, it would seem advisable for the board to draw up and adopt a declaration of policy at its first meeting or shortly thereafter. This declaration would clearly indicate the scope of authority of the chairman, of the administrator if not the chairman, and of other members. It should reduce to a minimum the misunderstandings which are almost inevitable in a large organization headed by a board whose members enjoy equal legal authority.

<sup>36</sup> There may be a few instances in which no board member is expected to devote full time to the office and it is preferable to make a chief deputy the administrator.

**5. The assessor should be aided by a staff of sufficient size to be freed of detail work and to be able to devote adequate time to the management functions, including, among other things, the planning of operations, the coordination of activities, and the maintenance of good public relations.**

The assessor who serves as the head of a large department is necessarily more a manager than a technician, and even the smallest department presents some managerial tasks. It is the function of the manager to plan, to control, to coordinate, and to represent the department in its relationships with the public and with other official agencies. If the assessor is to perform these managerial functions adequately, he needs not only to delegate a considerable measure of authority and responsibility to the various supervisors within his department but also, in large departments, to be surrounded by certain personal aides.

The assessor's principal aide is usually a chief deputy. The following list suggests some of the most frequently encountered conditions in which a position of this sort is desirable:

1. The department is headed by a board whose members are required to give complaints an initial hearing and whose time is largely occupied with such hearings.

2. The assessor is paid a small salary with the expectation that he will devote less than full time to the office.

3. The assessor is new to the office and is in the process of acquiring experience.

4. The assessor is elected to office and is required to devote considerable time to the activities appropriate to an elected official rather than to the technical aspects of administration.

5. The assessor must devote his full time to planning and to public relations work and hence is unable to maintain the continuous direction of internal affairs that is essential to a large office.

If there is a chief deputy, the assessor may have a confidential secretary or administrative assistant under his exclusive authority, but other members of the advisory staff will

ordinarily be coordinated by the chief deputy. These staff members may include a personnel officer, a budget officer, a director of research and statistics, an expert on office procedures, an attorney, or any combination of these positions. Of course in smaller offices each of these various staff functions will not require the full time of a single person. Several of them may then be assigned to a single position filled by an administrative assistant or some similarly designated employee; or they may safely be spread around among division directors, provided these directors clearly distinguish their advisory staff functions from the supervision of line operations.

One of the principal reasons for freeing the assessor from detail work is to give him time for the important and exacting work of maintaining good public relations. There are few fields of public administration in which this is more important. Unless the assessor is able to win the confidence and support of the taxpaying public, much taxable property which is easily concealed will go unlisted and much listed property which is difficult to evaluate without the cooperation of the owner will be placed on the rolls at improper figures.

It is also important that the assessor have adequate time for what may be broadly described as administrative planning. The assessor who is under constant pressure of work necessarily avoids innovation, and the organization which he heads inevitably becomes rigid and static. Without some rigidity, there is no organization, but too much rigidity is almost as bad as too little. The administrator must be constantly seeking to adjust his organization to a changing personnel and a changing environment. Constant analysis of complaints from taxpayers and employees, the effective use of staff meetings and individual conferences, periodic review of the duties and responsibilities of employees, a careful observation of management methods in other public offices and in the field of private business, and, above all, a progressive frame of mind will give the organization the vitality required to lift it above the dull plane of mediocrity.

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## *Chapter V*

### **Selection, Tenure, and Compensation of Assessing Officers**

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**N**OTHING contributes in greater measure to the equitable distribution of property taxes, according to the standards of equity established by law, than the securing of capable assessors to direct or perform the assessment function. To secure a good assessor, it is necessary first to find the right person and then to induce him to take the job. Tenure and compensation are of importance principally because they make, or fail to make, an office attractive to qualified candidates and because they have much to do with the continuance of incumbents in office. But the best possible laws of tenure and compensation will fail of their purpose if the method of selection from among candidates is poor.

#### **QUALIFICATIONS**

The assessor needs to have some acquaintance with many fields of learning. He should know something of the law of property and quite a lot of the law of taxation. He should know enough about surveying to be able to use a tax map and describe property accurately. He needs to know certain aspects of architecture and structural engineering if he is to appraise improvements, of real estate management and sales practices if he is to value urban land, and of soils and farming methods if he is to appraise rural land. An understanding of the techniques of private appraisers is required to appraise some parcels of improved real estate and to defend assessments against complaining taxpayers. In the appraisal of personal

property, familiarity with accounting is almost a necessity, and a knowledge of purchasing techniques is helpful. And finally, training in administration is needed wherever the assessor's office is large enough to create problems of internal organization and personnel management.

But knowledge is not the only requisite of a good assessor. Only slightly less important—and possibly as important where a tradition of self-assessment prevails—are his personality and character. He should be of unquestioned honesty and should inspire the trust and confidence of taxpayers. He should have a strong sense of duty and the energy to perform a difficult and thankless task. He should be of strong courage and not too sensitive to criticism. He should be tactful without being ingratiating, judiciously minded without being indecisive, firm but not stubborn in his convictions.

It is, of course, not necessary or even desirable that the local property tax assessor be an expert in each of these fields of knowledge and a paragon in each of these characteristics. A person so equipped—if any such could be found—would be overqualified for the position. He would probably demand greater compensation, greater responsibility, and greater honor than attach to the office, and he would doubtless be capable of rendering more useful public service elsewhere. It is largely a matter of judgment, then, how high the qualifications should be set. Having decided upon a certain level of qualifications, the lowest salary needed to secure a person on that level can be offered. Or, having decided upon a salary for the office, the best qualified person available at that salary can be sought. In a practical situation, both approaches will be used.

The degree to which any single qualification should be met depends on the nature of the district which the assessor is to serve. Whereas the assessor of a rural township need have no particular qualifications as an executive, the assessor of Cook County, Illinois, needs to be primarily an executive, capable of organizing and managing an office employing hundreds of

persons. On the other hand, it is not necessary that the assessor of Cook County be as highly proficient in the technical aspects of his department's work as the assessor of Peoria, for the Cook County department is staffed with subordinates who specialize in particular phases of technical work, whereas the Peoria assessor, whose staff is much smaller, must participate personally in many of the details of the assessment process.<sup>1</sup>

The qualifications of a good public official are not of the sort that can be readily set forth as legal prerequisites to be met by candidates for office; nor is there any popular appreciation of the need for highly qualified personnel in the public service. It is therefore not surprising to find that, under the laws of many states, almost anyone who can meet the qualifications of an elector of his assessment district is eligible to hold most public offices, including that of assessor. These voter's qualifications include citizenship, an age of at least 21 years, residence in the state for a period ranging from six months to two years, residence in the assessment district for from ten days to a year, sanity, and freedom from conviction of certain types of crimes. Voting and officeholding qualifications include literacy in 18 states<sup>2</sup> and the payment of poll taxes in 7.

In a few counties and a substantial number of city assessment districts, an officeholder need not be a member of the local electorate. This situation differs from that described in the preceding paragraph in one important respect: Where the public officer need not be a voter, he can often be recruited from outside the assessment district. But where the qualifications for holding office are not identical with those for voting,

<sup>1</sup> Sample qualifications prescribed or recommended for assessors of a large city (Baltimore, Md.), a medium-sized city (New Haven, Conn.), and a small city (Minot, N. D.) will be found on pp. 389-92. It will be noted that all call for education equivalent to graduation from high school, for a knowledge of tax law, and for ability to appraise property. Properly enough, the assessors of the two larger cities are expected to have a higher degree of administrative ability than is the assessor of the small city.

<sup>2</sup> In Alabama, Georgia, and South Carolina, all of which are included in the 18, owners of property may vote and hold office even though illiterate; and in Louisiana and Mississippi, also included in the 18, the literacy test may be waived under certain conditions.



it is usually because they are more, rather than less, exacting. For example, elected officers of New York towns must not only be electors of the town but must also be record owners of real property. And in almost every state there are some crimes which disqualify one for officeholding but not for voting.

The qualifications mentioned in the two preceding paragraphs are applicable to public officers in general. In addition, there are occasional qualifications peculiar to a particular office. A special requirement for some assessors' offices is an additional period of residence. For example, assessors of third-class cities in Kentucky must have four years' residence; those of third-class cities in Pennsylvania, five years'; and those who are to be appointed to the recently authorized Board of Property Assessment, Appeal, and Review in Allegheny County, Pennsylvania, ten years'.<sup>3</sup> A second special qualification for assessors' offices is real property ownership. The Kent County, Delaware, assessors must be freeholders; assessors of third-class Pennsylvania cities must own at least \$500 worth of real estate; and North Carolina tax supervisors, despite a constitutional prohibition against property qualifications, are selected under a statute requiring that they, too, be freeholders. Until recently, North Dakota township assessors were required to own real estate, but the law was liberalized during the depression to qualify owners of personal property as well.

Educational qualifications, aside from the literacy tests applicable to voters, are seldom prescribed for assessors. However, the requirement that Kentucky county tax commissioners pass an examination prepared by the Kentucky Department of Revenue before standing for election might well be classified in this category.

Experience qualifications are even less frequently encountered. One of the few examples is found in an act relating to the Allegheny County board previously mentioned. Each of the seven members of this board is to have had at

<sup>3</sup> This board is to be organized on January 5, 1942, under the terms of an Act of June 21, 1939.

least five years of practical experience in certain specified work—either four or five of them in real estate brokerage, appraising, or assessing; one in security transactions; one in construction or civil engineering; and the other, if the quota of seven has not already been filled, in law. The head of the Syracuse assessment department, under a local law adopted in 1937, (1) must be a licensed engineer or architect with three years of practical experience in construction engineering, architecture, or the appraisal of real estate, (2) must have had six years of practical experience in construction engineering, architecture, or appraisal work, or (3) must have had five years of experience as a deputy in the Syracuse department.

In addition to statutory qualifications, there are occasional qualifications formally prescribed by administrative action. This situation is quite closely confined to those jurisdictions in which the assessing officers are within the classified service of a formal merit system. Such jurisdictions are few in comparison either to the total number of assessment districts or the number of such districts having merit systems. Out of a total of some 30,000 active primary and overlapping assessment districts, fewer than 350 have merit systems which embrace employees in assessment departments; and, of this number, only about a dozen include the assessor in the classified service.<sup>4</sup>

#### ELECTION AND APPOINTMENT

The great majority of assessors acquire office by vote of the electorates of their assessment districts. Over 24,000 primary assessment districts are served by elected assessors, as compared with around 2000 primary districts with appointed assessors. (See Table 23, page 386.) Making allowance for boards in many parts of the East, these 24,000 districts account for approximately 27,400 out of a total of about 31,700 assessors of

<sup>4</sup> By a 1941 law, the Des Moines assessor is subjected to formal examination before appointment; but the civil service commission is not used as the examining board, and it is not clear that the board can establish qualifications prerequisite to taking the examination. The examination board has three members, one appointed by the city council, another by the school board, and the third by the county board of supervisors.

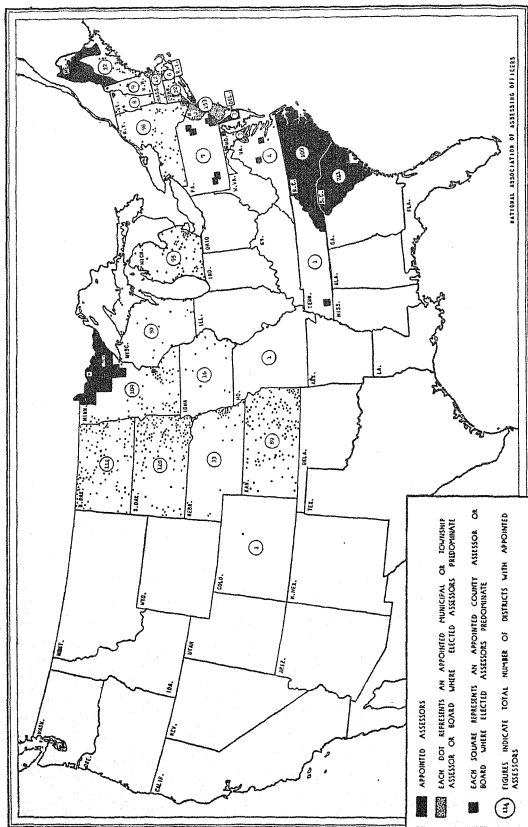


FIGURE 7. APPOINTED ASSESSORS IN PRIMARY LOCAL ASSESSMENT DISTRICTS

primary districts. About 94 per cent of all county districts, 98 per cent of all township districts, 95 per cent of all primary town, village, and borough districts, and 30 per cent of all primary city districts have elected assessors. Complete information is not available on the manner of selecting assessing officers in overlapping assessment districts.

These assessors may be chosen in either a partisan or a non-partisan election. Nonpartisan election of assessors is common in township and municipal assessment districts and uncommon in county districts. Sixty per cent of the cities of over 5000 population in which there are elected city assessors choose their legislative bodies, and probably also their assessors, by nonpartisan ballot.<sup>5</sup> But California apparently is the only state in which county assessors are elected without party designation.<sup>6</sup>

Where assessors are not elected, they are typically appointed by the legislative body of the assessment district or by a governing body which combines certain legislative functions with the executive function. Thus, county assessors are appointed by boards of county commissioners in Delaware, North Carolina, and third-class Pennsylvania counties, leaving only 11 counties throughout the country in which some other type of appointing agency has been designated.<sup>7</sup> Township assessors, when not elected, are appointed by the town board in New York and the township committee in New Jersey, both of which agencies are somewhat comparable to boards of county commissioners; but a majority of appointed township assessors are in South Carolina, where a different method of selection, to be described presently, is in vogue. Among municipalities (cities, towns, villages, and boroughs) selection by the council, the commission, or some other group of similar

<sup>5</sup> *The Municipal Year Book, 1940*, International City Managers' Association, Chicago, pp. 28-60.

<sup>6</sup> See E. M. Sait, *American Parties and Elections*, D. Appleton-Century Co., New York, 1939, p. 480.

<sup>7</sup> In addition, the assessors of unorganized areas in Minnesota are chosen by the county commissioners.

character is typical.<sup>8</sup> If the legislative and executive functions of the government of an assessment district are wholly or largely separated, as in council-manager and mayor-council governments, it is just about as likely that the legislative body will appoint the assessor as that the chief executive (or an executive board) will do so. Furthermore, the appointments of many chief executives must be confirmed by their legislative bodies. In practice, appointment by the mayor with confirmation by the council may be approximately equivalent either to appointment by the mayor or to appointment by the council, depending upon personalities and local traditions.

Occasionally the assessor is subordinate to a chief finance officer—the commissioner of finance under a commission form of government or the director of finance under the council-manager form. Where this relationship exists, the chief finance officer usually has considerable actual authority and occasionally has exclusive legal authority to name the assessor. Somewhat comparable is the situation in a few New England towns and cities where the board of finance makes the selection. Other miscellaneous appointing agencies include the judiciary in Virginia (boards of real estate assessors) and in the two largest Pennsylvania counties,<sup>9</sup> and county assessment supervisors in the larger cities of Nebraska and Kansas.

Although Ohio and Louisiana have experimented with gubernatorial appointment of local assessors within the century,<sup>10</sup> appointment by state officers is currently confined to

<sup>8</sup> A 1935 study covering practically all cities of over 10,000 population disclosed 367 appointed assessors or boards of assessors, of which 175 (48 per cent) were appointed by the council, 100 (27 per cent) by the mayor, 50 (14 per cent) by the manager, 13 (3 per cent) by some board, and 29 (8 per cent) by an unreported official or agency. (*The Municipal Year Book*, 1935, p. 244.)

<sup>9</sup> Reference is again made to the Allegheny County board which is to take office in 1942. Only one of its seven members is to be appointed by the court, whereas all seven of the members of the Philadelphia Board of Revision of Taxes are so appointed.

<sup>10</sup> The Louisiana law was enacted in 1898 and repealed in 1906, while the Ohio law lasted only from 1913 to 1915. The Pennsylvania legislature recently provided for appointment of third-class county assessors by the Auditor General of the state, but the act was held unconstitutional before it was put into effect. (*Commonwealth v. McElwee* (1937) 327 Pa. 148, 193 Atl. 628.)

South Carolina and Maryland. There is a considerable variety of appointing agencies in South Carolina, but most assessors are named either by the governor or by the legislative delegation from the county in which the assessment district lies. In Maryland, the locally elected county commissioners are technically assessors; but the county supervisors of assessments, who are appointed by the State Tax Commission from a list of five persons nominated by the board of commissioners, compare closely in duties if not in powers with assessors of other states.

The appointment of a county assessor by the officers of one or more tax districts within the county is found occasionally where these tax districts have relinquished the assessment function to the county. This situation is illustrated by Ramsey County, Minnesota, where appointment is by a board composed of the county auditor and the mayor and comptroller of the city of St. Paul; by Nassau County, New York, where two members of the board of five are appointed respectively by the boards of each of two towns, two are appointed by the board of the third town, and the fifth is elected at large; and by Allegheny County, Pennsylvania, where three of the seven board members who are to take office in 1942 are to be named by the mayor of Pittsburgh, one by the judges of the county court of common pleas, and the remainder by the county commissioners.

#### TERM OF OFFICE

Several factors affect the security of tenure of a public official, but probably the most important is the term for which he is elected or appointed. Most assessors hold office for a definite term of years, ranging from one to six. Table 24 (page 387) indicates the length of this term for over 24,400 of the 26,300 primary assessment districts in the United States. Approximately 49 per cent of these districts select their assessors for two-year terms, 27.5 per cent for four-year terms, and 18.3 per cent for one-year terms. Much less popular are three-year



terms, which are found in only 3.9 per cent of all such districts; six-year terms, which are found in 0.2 per cent; and five-year terms, which are found in only four of the 24,400 districts. Approximately 1 per cent of the districts for which information is available select their assessors for indefinite terms.

The percentages just recited tend to exaggerate the importance of one-year terms, since these are found almost exclusively in townships—the most numerous but otherwise the least important of the several types of assessment districts. On the other hand, the importance of indefinite terms of office is somewhat understated by these data, for this type of tenure is most frequently found among city assessment districts, which account for a large part of the 1900 districts not covered by the data.

Elected county assessors, with few exceptions, serve for terms of either two or four years, running concurrently with the terms of the governors of their states. Terms of three, five, and six years are most frequently associated with boards of assessors and hence are found principally in the East. Where there is a board of three, one assessor is often selected either annually or biennially for a term of three or six years, respectively; and a board of five is sometimes constituted by the annual selection of one assessor for a term of five years.

#### REMOVAL FROM OFFICE

Some constitutional or statutory provision is always made for the removal of an incumbent from public office before the expiration of a definite term. Elected assessors in a dozen states are removable by the electorate through recall procedures;<sup>11</sup> appointed assessors are commonly removable by the officer or agency making the appointment; and, whether appointed or elected, assessors can almost always be removed by the courts. The heads of the state tax departments of Indiana, Kansas,

<sup>11</sup> These states are Arizona, California, Colorado, Idaho, Kansas, Louisiana, Michigan, Nebraska, Nevada, Oregon, Washington, and Wisconsin. Recall procedures have also been prescribed locally by home-rule charter in some states.



Maryland, Nebraska, and New Jersey and the governors of Colorado, Florida, Louisiana, Michigan, Minnesota, and South Carolina also have the authority to remove local assessors. Pennsylvania assessors may be removed by two-thirds vote of the Senate.

No specific grounds of removal are needed for the recall of an elected officer. The only common requirements are that a specified percentage (usually 25) of those voting at the last election sign a petition and that a majority of those voting in the recall election favor removal. Of course, as a practical matter, charges must be made against the officer in order to secure popular support of the recall petition. The difficulty of making such charges convincingly and certain legal provisions safeguarding officeholders from passing whims of the electorate operate to reduce to a very small number the cases in which the recall is successfully invoked. A careful study of the California experience from 1911 to 1930 revealed no instance in which the removal of an assessor had even been attempted,<sup>12</sup> and if there have been any such cases in other states they have escaped our attention.

Removal of assessors by the appointing agency is simple enough where the office is held "at the pleasure" of such agency, as is usually the case with an indefinite term of office. Ordinarily charges do not even have to be brought, much less proved to the satisfaction of any third party. The insecurity of an appointive office has, however, been mitigated in many instances. For example, it may be required that written charges be brought against the assessor. This affords officeholders a considerable degree of protection against removal for capricious or purely personal reasons, since appointing agencies are naturally reluctant to place on record a case which cannot be adequately defended against attack by the newspapers and the political opposition.

A second means of reducing the insecurity of an indefinite

<sup>12</sup> Frederick Bird and Frances Ryan, *The Recall of Public Officers*, The Macmillan Company, New York, 1930.

term of office is to require that the officeholder be given a hearing before dismissal. This procedure may either be substituted for the bringing of written charges or may supplement such charges. The hearing is usually private, although public hearings are sometimes required, and the officer against whom charges are brought is occasionally allowed to choose between private and public hearings.

A still higher degree of security is realized where charges must not only be brought but must be proved to the satisfaction of a third party—usually a judge, a jury, or a civil service commission, occasionally a state governor, as in Minnesota, or the head of a state tax department, as in Kansas. Assessors who are elected or appointed for definite terms, as well as a few who serve for indefinite terms with “tenure of office,” are usually removable only through this process. It is a matter of common knowledge that few are so removed.<sup>13</sup>

The charges on which removal actions may be based, where charges must be brought, are not dissimilar from one state to another. Neglect of official duties and official misconduct are the grounds most frequently specified. A Colorado or an Illinois assessor may be removed for wilful failure to assess property at true value, a Louisiana assessor for inefficiency, an Alabama, Indiana, Kansas, Louisiana, Texas, or West Virginia assessor for incompetence, and an Alabama, Kansas, Tennessee, or Texas assessor for intoxication, to mention a few of the other grounds set forth in the laws of the several states.

#### RETIREMENT

As a general rule, assessing officers of advancing years are not subject to compulsory retirement laws. Such laws seldom apply to counties and townships, which account for two-thirds of all assessment districts; they seldom if ever apply to elected officers, a category in which the great majority of assessors are found; and they frequently do not apply even to appointed municipal officers when they are department heads.

<sup>13</sup> See p. 337.

Such compulsory retirement as exists is virtually coextensive with retirement benefits.

A recent study of retirement benefit systems among 980 out of 1072 cities of over 10,000 population disclosed 255 municipalities with systems applicable to all or nearly all employees in general departments, 185 of which serve as primary or overlapping assessment districts.<sup>14</sup> These 185 municipalities are located in 18 states and the District of Columbia, although Massachusetts, with 68, and New York, with 64, account for over two-thirds of the total. A similar survey is not available for counties and townships. However, there is a state retirement system which provides coverage for Ohio county employees; and any local government in California, Illinois, and North Carolina may vote to join a state-wide system.<sup>15</sup> In addition, there are a few counties, principally in California, which have their own retirement benefit plans.

It is not known to what extent assessors themselves are covered by these retirement systems. In all instances membership is optional for eligible persons employed at the time a government joins the system, but elected department heads are not always eligible and are apparently never compelled to become members regardless of when they take office. Thus, elected Massachusetts assessors are permitted to enter the system after four years of service "if the duties of their office require them to devote a major part of their time to the work of the office," and membership is optional with elected California and Illinois assessors. Ohio county auditors (ex-officio assessors), on the other hand, are ineligible for membership.

Retirement plans usually offer several benefits, including sickness, death, and accident benefits and retirement pensions. Provision is generally made for contributions by the

<sup>14</sup> The 255 municipalities are identified in *The Municipal Year Book, 1941*, pp. 131-49.

<sup>15</sup> *Ohio General Code*, sec. 486-32 ff.; *California Statutes, 1939*, chs. 927, 954; *Laws of the State of Illinois, 1939*, H. B. 626; *North Carolina Public Laws, 1939*, ch. 390. A 1941 amendment to the North Carolina act makes counties of less than 15,000 population ineligible for membership in the system.

employee, which are handled as salary deductions, and for additional contributions by the government for which he works. In Massachusetts the employee contributes 5 per cent of his salary; in North Carolina, 4 per cent; in Illinois, 3.5 per cent or more as may be necessary to sustain the fund on the basis of guaranteed benefits; and in California and New York, varying rates depending upon the sex of the employee and his age upon entering the service. The employer's contribution may be equal to, or an exact multiple of, the employee's, or it may be a "deficiency" contribution supplementing employee contributions and earnings on investments to the extent required to pay benefits of guaranteed amounts. Provision is made for return, with interest, of the employee's contributions toward retirement pensions if he leaves the government's employ before becoming eligible for retirement.

### TURNOVER

Failure of reappointment or reelection at the end of a term of office, removal from office in the midst of a term or during service of an indefinite term, death, and voluntary or compulsory retirement give rise to turnover in the assessor's office. The rate of turnover for the country as a whole is not known and cannot be readily estimated. For a group of between 800 and 1000 assessors of cities over 10,000, the editors of *The Municipal Year Book* have found annual rates averaging 15.8 per cent in the five-year period 1935 to 1939, inclusive,<sup>16</sup> indicating an average service of between six and seven years. It seems probable, however, that this turnover figure is too high.<sup>17</sup> Using the same basic information, but restricting ourselves to 155 cities in six states,<sup>18</sup> we find an average turnover of 12 per cent, indicating an average service of eight years.

<sup>16</sup> *The Municipal Year Book*, 1940, p. 560. County or township assessors were included where the city governments did not perform assessment functions.

<sup>17</sup> Persons retiring from the chairmanship of a board of assessors were apparently treated as the equivalent of single assessors leaving office. The common practice of rotating the chairmanship among members of a board suggests that many of these changes did not involve an actual turnover.

<sup>18</sup> Iowa, Michigan, Minnesota, New Jersey, New York, and Wisconsin. Cities with boards of assessors were excluded to eliminate the error described in the

Turnover data from individual states, as might be expected, vary considerably. Prior to the recent lengthening of terms from two to four years, Renne reported that Montana county assessors averaged about six years in office.<sup>19</sup> With the same length of term, Colorado assessors seem to have enjoyed average tenures of about nine years.<sup>20</sup> Wisconsin assessors, the majority of whom serve for terms of a single year, appear to average at least seven or eight years in office.<sup>21</sup> An extremely low rate of turnover is reported for Illinois townships, where a small but reputedly representative sample yielded an average service of 14 years.<sup>22</sup> On the other hand, the South Dakota State Planning Board reports<sup>23</sup> that "approximately one-third of all assessors in South Dakota are serving for the first time each year," which is startling even in view of the short term of office prevailing in that state.

A few states retain a once fairly common statutory or constitutional provision limiting the number of successive terms which an assessor can serve.<sup>24</sup> County assessors in Washington may serve not more than two successive four-year terms, while New Mexico county assessors are restricted to two successive two-year terms. County treasurers in Illinois, who serve *ex officio* as county assessors in some counties and as supervisors of assessments in others, hold office for one four-year term and cannot succeed themselves at all. These provisions have several

preceding footnote. The sample does not include counties, where turnover is probably a little lower, nor townships, where it is probably a little higher.

<sup>19</sup> *Montana County Organization*, Montana Agricultural Experiment Station, Bozeman, 1935, p. 19.

<sup>20</sup> The Colorado estimate is based on data collected by Jensen for the years 1921 to 1930 (*Survey of Colorado State Tax System*, Chamber of Commerce, Denver, 1930, p. 89).

<sup>21</sup> Harold Groves, "Property Tax Institutions in Wisconsin," *Bulletin of the National Tax Association* (1933) v. 19, p. 74; unpublished data compiled by Bristol Goodman, Research Assistant in Economics, University of Wisconsin, covering 185 city and village assessors and 275 town assessors.

<sup>22</sup> Illinois Tax Commission, *Fifteenth Annual Report, Assessment Year 1933*, p. 311.

<sup>23</sup> *First Biennial Report*, 1936, p. 68.

<sup>24</sup> The rapidity with which this provision is disappearing is evidenced by repeals in Missouri in 1931 and in Nebraska in 1933. On the other hand, New Mexico voters in 1938 and Washington voters in 1940 declined to repeal such provisions by constitutional amendment.

explanations. To some extent they arise from the fear that officeholders will improperly use their powers to perpetuate themselves in office. But probably more important is the old belief that public offices should be passed around among the eligible citizenry.

### PAY RATES

The annual compensation of assessors in the United States ranges all the way from \$6 to \$15,000. It is estimated that the median is considerably less than \$1000. However, the exclusion of very small districts raises this average a great deal. Thus, for 777 assessment districts having 1930 populations of more than 10,000—over one-third of all districts of this size—a 1940 median compensation of \$2200 was found.<sup>25</sup>

The larger the assessment district, the larger the compensation tends to be. There are at least four reasons for this. First, there is more work for the assessor to do in the larger districts. This factor alone accounts for much of the variation in the annual remuneration of township assessors, who are customarily paid a per diem and work anywhere from a few days to several months depending chiefly upon the size of the district. Second, the work is more difficult in a large district than in a small one, due either to a more diversified group of taxable properties within the district or to a greater number of subordinates whose work the assessor must supervise and direct. This makes it necessary to offer a higher salary in the large district in order to attract persons having the desired qualifications. Third, a more equitable assessment is usually demanded for large districts than for small ones because the large districts tend to have higher tax rates and higher standards of public service. Finally, there is a tendency for the cost of living to be higher in large assessment districts than in small ones. These are the principal factors which explain an increase in the average assessor's compensation from around \$500 in districts

<sup>25</sup> All assessors who were known to hold a second public office were excluded from this sample. Where there was a board of assessors, only the chairman's salary was tabulated.

having less than 10,000 inhabitants to over \$6000 in districts of over 500,000.

Beneath these averages are concealed some astoundingly low salaries. At least four counties of more than 150,000 inhabitants pay \$3000 or less, and one of about half a million pays only \$3800. Cities, as a rule, compensate their officials somewhat better than counties, yet we find one of more than 500,000 population paying only \$4000, one of more than 100,000 paying \$2500, and one of more than 30,000 paying only \$1000. One would expect salaries to be lower where there is a board of assessors than where there is a single assessor; it is nevertheless surprising to find a city of over 100,000 paying its assessors \$1200 each, and two others of similar size paying less than \$2500. Two cities of over 25,000 have boards of assessors whose members receive only \$600 a year, and there are at least twenty cities of over 10,000 paying their assessors \$500 or less, including one city paying each of two assessors \$250 and another paying each of three assessors only \$50.<sup>26</sup>

A study made by the editors of *The Municipal Year Book* indicates that the assessor holds one of the most poorly paid public offices. The 1940 salaries of 11 officials in a large number of cities of over 10,000 inhabitants were averaged by population groups.<sup>27</sup> Since there were six population groups and ten officials other than the assessor, there were 60 average salaries against which to compare the assessors' averages. The assessors' averages exceeded only 17 of these. They exceeded the averages for clerks in the four population groups over 50,000 and for librarians in the five population groups below 200,000. They exceeded the averages for fire and police chiefs in the two population groups ranging from 100,000 to 500,000, for health officers (probably part-time officials in most instances) in the

<sup>26</sup> None of the data in this paragraph applies to overlapping assessment districts, which may legitimately reduce the cost of assessing by leaning heavily on the rolls of their primary districts.

<sup>27</sup> *The Municipal Year Book, 1940*, pp. 561-62. The study covered the following officers: mayor, city clerk, chief finance officer (auditor, comptroller, treasurer, etc.), assessor, superintendent of schools, librarian, director of public works, fire chief, police chief, health officer, and attorney.

two groups below 50,000, and for mayors and attorneys (also mostly part-time officials) in cities of 10,000 to 30,000.

The compensation of assessors, particularly elected county and township assessors, is often wholly determined by the state legislature. Furthermore, several state legislatures which refrain from fixing precise compensations do go so far as to set maxima or minima. Connecticut towns, for example, unless otherwise authorized by special act, may not pay less than \$2.50 per day of service, while Maine towns with populations of more than 3000 may pay no more than \$5.00 a day. Both maxima and minima are sometimes set by the state legislature, as in Idaho, where a salary of between \$1200 and \$3000 may be paid to county assessors. The legislative body of the local government defraying the cost of assessing usually determines the compensation to the extent that the state legislature has not usurped the power.

#### TYPES OF COMPENSATION

State laws prescribe three major types of compensation for assessors. First, there are annual salaries, which are usually paid in monthly or semimonthly instalments and in amounts which are fixed for relatively long periods and are unrelated or only roughly related to the work output of the current year. Second, there are per diems, which are comparable to annual salaries except for the important fact that the day instead of the year is the time unit. Third, there are commissions, which are usually paid in a lump sum at the end of the assessment year (or in the form of advances against a lump-sum compensation computed at the end of the year) and are related in some rather direct manner to the work output of the year.

Annual salaries are paid the assessors of almost all cities of over ten or fifteen thousand population and of a majority of counties.<sup>28</sup> The payment of such a salary carries the presump-

<sup>28</sup> Cities of smaller size usually pay per diems, weekly salaries, monthly salaries, or lump sums. The manner in which city assessors are to be paid is seldom prescribed by state law and consequently varies widely within states as well as between states.



tion that the assessor is to work the year around, though it seems probable that the assessors of small districts are paid less than the assessors of large districts with some expectation that they will have time to supplement their official salaries by outside work.

Township assessors, with few exceptions, are paid by the day in amounts ranging from \$2 in certain parts of South Carolina to \$10 in certain parts of Illinois and in first-class Pennsylvania townships. In some states the rate is uniform for all township assessors—for example, \$4 in Iowa and \$5 in North Dakota. But in all of the township assessment states, whether or not the per diem varies, the assessors of large districts tend to get more remuneration than those in small districts by devoting a larger number of days to the assessment process. Frequently the number of days for which pay can be drawn is limited by state law; an extreme example is found in Hampton County, South Carolina, where township assessors get \$2 a day for not more than three days a year.

Although most county assessors get annual salaries, some are paid on a commission or fee basis. All of the payments previously described tend to vary with the amount of work to be done, but the commission payment is intended to bear close relationship to the work actually accomplished in the assessment year and represents the counterpart of the piece-work wages which have been so widely employed in the field of private industry. A simple example is found in Kentucky, where most county tax commissioners are paid five cents per hundred dollars of assessed valuation up to one million dollars and two cents per hundred on the excess.<sup>29</sup> Other bases on which commissions are computed are tax extensions in some Florida counties, tax assessments on which taxes are actually

<sup>29</sup> Maryland county supervisors of assessments are also paid according to assessed valuations, but they are paid for each calendar year on the valuation established in the preceding year. In Arizona, Montana, New Mexico, Utah, and Wyoming, which classify counties by assessed valuations for salary purposes, reclassification occurs only at the beginning of a new term for the assessor; thus the assessor has no opportunity to raise his own salary by increasing the assessed valuation except as he may get himself reelected to office.

collected in Texas, tax collections in Alabama, and entries on the assessment roll in Missouri.<sup>30</sup> Many assessors who are remunerated for their assessment duties by means of salaries perform minor tax collection functions for which they are paid a percentage of their collections.<sup>31</sup>

### RECOMMENDATIONS

**1. *Statutory qualifications for the office of assessor may properly include maturity, literacy, citizenship, and freedom from conviction of felonies, but should not include prior residence within the assessment district or property ownership.***

The primary purpose of statutory qualifications ought to be to keep incompetent persons out of the public service. This, of course, is the reason for denying public office to immature persons, illiterates,<sup>32</sup> criminals, and persons who are mentally ill or deficient. Some might also explain residence qualifications on this ground, since familiarity with a locality is useful to most public officials and is certainly not a handicap to assessors. But the disqualification of nonresidents must be ascribed chiefly to the "charity concept" of the public payroll and to the belief that the public receives indirect benefits from the employment of persons already living in the community which will compensate for any lowering in the level of government services which may result from this restriction of officeholding privileges.

During the recent depression one candidate for office actually campaigned on the slogan "Make me your assessor and take me off the relief rolls." Fortunately this incident was so incongruous that it was more amusing than disturbing, but it does have an ominous note. A large number of reputedly

<sup>30</sup> A few Tennessee county assessors are paid annual salaries fixed by the county authorities, but subject to a maximum computed in somewhat the same manner that actual compensation is computed in Missouri. However, most salaries in this state are set by private acts of the legislature.

<sup>31</sup> This is true, for example, of many county assessors in California, Mississippi, Nevada, and West Virginia.

<sup>32</sup> A literacy test for assessors is probably not as superfluous as it appears. At least as recently as 1925, there is record of an illiterate assessor in Wisconsin.

"good" citizens do not clearly distinguish between public employment and work relief. And, since it is widely accepted that charity begins at home, these people fall ready prey to others who advocate residence requirements for purely selfish reasons.

But even those who agree that the government should buy services and not merely distribute largess through its regular payroll are not immune to fallacious notions concerning the advantages of residence requirements. The same arguments by which selfish pressure groups have won public support for trade barriers between the states are used to support personnel barriers between cities and counties. Chief among these are the contentions that we should "keep our money at home" and that the community income should not be spread thinner by bringing in an outsider. The keep-the-money-at-home argument is inherently fallacious, but it may be dismissed with the observation that nonresidents almost invariably become residents upon selection for public office whether or not the law requires them to. The argument concerning the thinning of the community income is also fallacious, for it ignores the facts that neither the community's income nor its population is fixed and that a resident who is removed from or denied a public office normally finds other useful work in the community and thus swells its income or moves elsewhere and leaves the population at the former level.

If it were suddenly proposed to discharge a hundred or a thousand public employees and bring in an equal number of nonresident replacements, the economic consequences would doubtless be undesirable. But the need to look outside the community for employees will seldom arise for more than a few top positions. These are positions which call for special talents and special backgrounds of training and experience. Their incumbents possess powers which will greatly benefit the community if properly exercised and will greatly injure the community if abused. The harm which would result from filling these positions with unqualified "local talent" would

greatly exceed any conceivable harm which could come from the employment of nonresidents. It is submitted that the assessor's position belongs in this select group and that it is too important to be restricted to residents.

In objecting to residence requirements, we do not mean to imply that familiarity with a community is of no value to an appraiser. There are those who think that an outsider will make a more uniform assessment than one who knows and is known by many of the persons whose property he must list, but we do not support this viewpoint. We believe that a resident is better qualified to become a local assessor than a non-resident, other things being equal. However, other things are not always equal. When they are not, it is contended that residence should be but one of several factors influencing the selection of an assessor.

The smaller the assessment district, the more objectionable residence qualifications become. Adair County, Iowa, contains a township with a population of 336. Within the township there is a town with a population of 302. This leaves 34 persons who reside within the township but not within the town. Under the Iowa law, this fractional part of a township constitutes a separate assessment district, and the assessor must be chosen from among these 34 persons. Allowing for children and for persons who have no interest in the position, it is doubtful whether there are more than ten people who can be induced to serve as the assessor. To say that these ten persons are *per se* better qualified for the office than any other resident of the township or of the county, the state, or the nation is obviously absurd. In other words, the smaller the district, the less chance of finding a person in it who has the desirable qualifications *other than residence* and the greater the chance that there will be nonresidents who are substantially as familiar with the district as any of the residents.

On the other hand, it is not at all important that the assessor of a large city be a resident of the city, because his task is essentially one of administration and not one of appraisal.

An assessor who knows how to organize and manage an office and who is assisted by a competent and adequate staff can be a complete stranger to an assessment district and turn out a better assessment roll than a life-long resident who lacks administrative capacity. It is true that New York City, with a population of nearly seven and a half millions to choose from, may never need to go outside the city limits to look for the head of its assessment department, but it is equally true that the head of the department can and should rely upon his subordinates to do the sort of work in which residence is particularly advantageous. The principal objection to residence qualifications in New York City is that they set a bad example for smaller cities.

We have no illusions that the abolition of legal residence requirements for assessors will greatly alter the now all but universal practice of placing residents in office. Not only where selection is by popular election, but also where it is by appointment, 9 out of 10 if not 99 out of 100 assessors will still be chosen from those who have been living in the assessment district. But this is no reason why a first step should not be taken by repealing residence qualification laws. This is a step which must be taken before there can be a true professionalization of assessing officers. No one can be expected to train himself for assessment work when there is only one office and a few subordinate positions for which he is eligible; nor can one who has secured such a position be expected to master the arts of assessing when opportunities for advancement to positions of greater responsibility and greater reward are closely circumscribed by the residence qualifications of other districts.

There is only one other statutory qualification of assessors which is common and important enough to warrant mention, and that is real property ownership. The purpose of making this a qualification is obscure. Perhaps it is assumed that property ownership qualifies one as a property appraiser. But there are doubtless many good appraisers who do not now own, and

never have owned, real property; and the vast majority of property owners can lay no claim to proficiency in this field. Another possible explanation is that property ownership places one in the ranks of taxpayers and makes one sympathetic to their problems; but this seems to be rather irrelevant, for it is the legislative body, not the assessor, that is responsible for the amount of the tax burden. It seems most probable, then, that property ownership qualifications are a vestige of the landed aristocracy. While there may still be a positive correlation between ability and wealth and a preponderance of home owners within the ranks of good citizens, the continuance of property ownership qualifications—especially when the property must be in the assessment district—seems likely to bar some otherwise well qualified persons from office without making any substantial contribution to the selection of a good assessor.

***2. The state tax department or a state or local personnel agency should be empowered to establish further qualifications for assessors, to examine candidates, and to certify their fitness for office.***<sup>33</sup>

Only the most fundamental and universally desirable qualifications for public office should be set forth in the state statutes. The establishment of higher standards will make it possible to find assessors only at salaries which are prohibitive to the least prosperous local governments, and the establishment of qualifications which are occasionally but not universally desirable will often exclude from office some of the most talented candidates. But this inevitably means that statutory qualifications will be such that perhaps 90 per cent of the adult population are eligible for office, although few are particularly suited for it. The answer to this dilemma is to give an administrative agency the responsibility for culling out of this 90 per cent the 5 or 10 per cent who are seriously interested in becoming assessors and for further reducing this 5 or 10 per cent to the fraction of 1 per cent who seem most likely to fill the office with distinction.

<sup>33</sup> This recommendation was not adopted by the Association.

There are three administrative agencies which might logically be called upon to take up this task—the state tax department where it supervises local assessors rather closely, as in Maryland and Wisconsin;<sup>34</sup> the state personnel agency where it has had considerable experience in the recruitment of local government employees, as in New Jersey and New York; and the local personnel agency where such an agency is well developed.

The qualifications which would be established by whatever administrative agency was chosen would properly vary from time to time and from place to place within the state, thereby providing the flexibility which statutory qualifications generally lack. There would almost always be some fairly simple eligibility standards, such as a high school education or two years' experience in the purchase and sale of real estate, the construction of buildings, or the appraisal of property. Those failing to meet these qualifications would be automatically eliminated; those meeting them might either be certified as available candidates or be subjected to further testing so that only a few of the best candidates would be permitted to qualify. This further testing might be of the so-called "unassembled" type, in which the candidate's rating is based entirely upon a detailed written statement of his education, experience, and achievements. Or it might take the form of a written examination, an oral interview, or any combination of the three types. The success of the program will depend upon a sensible adaptation of testing methods to local conditions.

It is true that most local governments which now have merit systems such as we here propose do not include the assessor, himself, within the system. Kentucky county tax commissioners are the only elected assessors (and almost the only elected local officials) recruited on a merit basis; and appointed assessors are usually excluded from merit systems along with all

<sup>34</sup> This would compare closely with the situation in Kentucky, where the state tax department prepares and grades an examination which all candidates for the office of county tax commissioner must pass before standing for election.

other department heads. Thus we find that the assessor's qualifications for office are unlikely to be formally tested unless he is appointed rather than elected to office and unless he serves as a division head within a finance department rather than as the head of a separate assessment department.

There are three principal reasons for excluding department heads from the merit system. First, it permits the filling of the most attractive positions in the public service on a patronage basis. Viewed in this light, the exclusion of these positions from the classified service represents a compromise with the proponents of the spoils system. Second, department heads often advise the chief executive in his policy forming activities and are entrusted with a considerable measure of discretion in carrying out the policies decided upon by the legislative body and the chief executive. It is therefore thought necessary that the chief executive should have the authority to appoint and dismiss his department heads without interference by a civil service commission. Third, the testing devices which are employed for the recruitment of personnel are not particularly well adapted to the selection of one whose chief jobs are the organization of a department and the management of a considerable number of subordinates.

An examination of these points reveals that none is a compelling reason for placing the assessor outside a merit system. There is widespread public demand that the assessor's office be kept out of partisan politics, and this lends strength to the opponents of patronage appointments to this office. Furthermore, the questions of policy arising in the assessing department are of minor importance as compared with those arising in other departments, most of which are given much greater latitude by the state legislature. And finally, the typical assessment department contains few employees and requires for its head a person having technical skills which can probably be tested with more success by means of formal examinations than by the means which appointing agencies are likely to employ when their choice of candidates is unrestricted.



**3. *As a general rule, assessors should be appointed to office.***

It would be possible to apply the preceding recommendation to elected assessors, as indeed has been done in Kentucky. But if an office requires special qualifications, it is usually easier to make it appointive than to restrict closely those who are eligible for election to it.

It appears to be true that there are instances in which partisan political pressure is less if assessors are elected than if they are appointed without a test of competence. But, as a general rule, assessors ought to be appointed rather than elected even though there is no formal testing process. In a democracy, those who are entrusted with policy formation must be elected to office. But this is as far as the election need go. Many authorities hold that only members of the legislative body (e.g., the city council) should be elected. Others are prepared to countenance election of the chief executive (e.g., the mayor) on the ground that he is almost certain to play an active part in policy formation. But few are prepared to defend the election of other officers in the executive branch of government.

The election of assessors and other administrative officers is less common in large assessment districts than in small ones. The chief reason for this is readily apparent: Voters are unable to choose wisely when they know little or nothing about those who are running for office. The primary vote, under such circumstances, is almost certain to favor the candidate who has the backing of the regular party machine, and the final election is about as certain to go to the one bearing the label of the party which, through no fault or merit of the candidates for the office of assessor, is in the ascendancy at the moment. There are a few outstanding elected assessors of large districts who have managed to stay in office long enough to gain a considerable reputation with their electorates, but they are exceptional.

On the other hand, some observers believe that there is better reason to appoint assessors in small districts than in

large ones. In a small district, a candidate for an elective position must make himself known to a large number of voters; and after taking office he must keep in the good graces of his constituents if he wishes to serve more than one term. No one knows better than the elected assessors themselves how difficult it is to do this while maintaining complete impartiality and conforming closely to the requirements of the tax law. The difficulty is especially great where there is a tradition of self-assessment, for it is virtually impossible for an assessor to break this tradition without losing the support of enough voters to insure defeat at the next election.

There is, of course, no necessary correlation between ability to secure votes and ability to run an assessment department. Frequently public-spirited persons who would make excellent administrators have no flair for electioneering and shrink from displaying to the voters such appeal as they do have. Thus, many persons who are not available for an elective office would be available if the office were appointive, while few persons are uninterested in an office simply because it is appointive rather than elective. As a result, the range of choice for the assessor is enlarged and the opportunity to select a good one is correspondingly increased where the office is filled by appointment.

The fact that heavy expenditures must often be made on an election campaign also serves to make an elective office relatively unattractive. If it costs \$1000 to be elected to an office paying \$3000 and having a term of two years, it may be expected that only those who are willing to work for \$2500 a year will offer themselves as candidates. Thus, although it appears that campaign expenditures come out of the pockets of the candidates or their backers, they come at least partially out of the public treasury in the form of salaries which are excessive in terms of the qualifications of candidates. The public also often bears part of the expense of elections by paying an incumbent officer for a considerable number of hours spent in seeking reelection.

There is only one argument for election rather than appointment of assessors which carries any great measure of conviction: The electorate, though probably less informed concerning candidates than those persons who usually make appointments, will presumably choose that one which it thinks will do the best assessing, whereas appointed officials will frequently be selected on a political patronage basis. It is unquestionably true that appointed assessors often secure appointment through the influence of the political leaders of the community. But experience has shown that a political leader can control elections just about as effectively as he can appointments. Occasionally elected assessors go over the heads of the professional politicians to the people and win, but only those who themselves have the qualities of political leadership or who have years of successful experience behind them are likely to succeed in such a venture. Furthermore, there is abundant evidence that the assessors of small communities, in which political leaders are less likely to dominate elections, are not always chosen because the voters think they will spread taxes more equitably than the unsuccessful candidates for the office.

Nonpartisan elections are sometimes urged in answer to the more obvious objections to the election of local administrative officers. The arguments of the proponents are appealing, and such examples as we have noted in the assessment field appear to support their position. It must be remembered, however, that political parties, although predominantly interested in state and federal governments, often do perform a real function locally. If an assessor is going to be identified by the voters as a Republican, the local Republican leaders are likely to make some effort to see that their party candidate is someone who can be counted upon to bring honor rather than disgrace to the party and who will strengthen rather than weaken the party ticket. On the other hand, when the election is nonpartisan, a candidate may get party backing without creating party responsibility. Or, if the parties are inactive in

a nonpartisan campaign, the electorate, lacking leadership and adequate knowledge of the qualifications of candidates, may select an assessor because his name comes first on the ballot, because his name identifies him as a member of the dominant nationality within the district, or for some equally irrelevant reason.<sup>35</sup> For this reason, it is believed that nonpartisan election of assessors is not an adequate substitute for appointment.

***4. Appointments to the office of assessor should ordinarily be made by the chief executive or executive board of the assessment district.***

Although those who have written on the subject of selecting assessors are almost unanimously in favor of appointment rather than election, there is no agreement as to where the power of appointment should be lodged. Three agencies have been selected or advocated often enough to make a serious bid for this authority. These three are the head of the state tax department, the local legislative body, and the local chief executive.

Appointment by the head of the state tax department has an impressive list of advocates but little popular support. Its virtues and deficiencies must be judged on scanty evidence. Maryland's experience with its county supervisors of assessment might be helpful but has been given little study; and Alabama's experience with its new county boards of equalization is as yet inadequate to provide much guidance. Elsewhere the closest approach to appointment by the head of a state tax department has been appointment by the governor, and this has not been notably successful. Appointment by the state governor, however, is not necessarily comparable to appointment by the head of the state tax department and may in fact be quite different if a tradition of competence and nonpartisanship shields the department from political pres-

<sup>35</sup> Compare Herbert D. Simpson, *Tax Racket and Tax Reform*, Northwestern University, Chicago, 1930, p. 207.

sure. It is nevertheless the opinion of the committee that appointment of assessors by state tax officers should not be adopted unless the assessment function is to be transferred completely to the state government. With any partial transfer, such as is usually contemplated by those advocating such appointment, it is likely that neither level of government will give the function the attention and support it deserves. Furthermore, control over the appointment of assessors throughout a state is a powerful political weapon, and the agency which wields it should have a responsibility commensurate with its authority.

This is not to say that the head of the state tax department should have no influence upon the selection of assessors. We have already suggested that an agency which gives extensive supervision to the assessment process may well be required to test the qualifications of candidates. But, having done so, it should certify to some local appointing authority the names of at least three candidates, unless fewer than three are interested in the position.

A majority of those assessors who are now appointed to office are selected by the local legislative body. This is due partly to the fact that many local governments—most of our counties and all cities having a true commission form of government—have a legislative body which serves also as an executive board. But even where the legislative and executive branches of government are separated, there is a distinct tendency to lodge the authority to appoint the assessor in the legislative body. The reason for this is not at all clear. Unlike the person performing the post-audit, the assessor is not an officer who is intended to verify the claims of the chief executive. The assessor is part of the administration. He differs from other parts in being more closely circumscribed by state law and in the sense that he is not rendering one of the functional services for which government was established, but it is difficult to see why these differences should affect his relationship to the chief executive or the local legislative body.

If there is to be a chief executive, it seems that his authority should embrace the assessment department for the same reasons that it should embrace the department of public works. Political interference with the assessor's work will probably be less where the chief executive makes the appointment, and coordination with the work of other departments of government is certain to be better.<sup>36</sup>

Frequently the chief executive is authorized to appoint the assessor, while the council has the power of confirmation. Although this division of authority works smoothly enough in most instances, it would seem preferable to dispense with the confirmation. The power of confirmation, if abused, can be made the equivalent of the power of appointment, and it will almost always impose restraints upon the chief executive. Thus the authority of the executive is not commensurate with his responsibility, and he must accept the blame for a failure which is not necessarily his own. It is within the realm of possibility that an elected chief executive might abuse his authority and obstruct the policy of the legislature with immunity from interference until the end of his term, but this is quite improbable. If the chief executive is chosen by the legislature and serves at its pleasure, as in the case of a city manager, there remains no good reason at all for council confirmation of his appointments.

In New England towns and many townships in other parts of the country, the electorate itself, assembled in town meeting, serves as the legislative body, while a board of selectmen or board of trustees serves as the executive. Under these circumstances, there is seldom a single person who can be spoken of as the chief executive, but rather an executive board. Elsewhere, particularly among our counties, the legislative and executive functions (not to mention certain judicial functions in some southern states) are assigned to a single board or commission. These executive boards would appoint assessors under the terms of our recommendation.

<sup>36</sup> For examples of such coordination, see p. 351.

**5. *An appointed assessor should generally serve for an indefinite term of office and an elected assessor for a term of not less than four nor more than eight years, without restrictions as to service of successive terms.***

Persons who are elected to office must necessarily be chosen for a term at least as long as the interval between regular elections. But such elections occur annually in many assessment districts and biennially in most of the rest. To limit the assessor to terms equal to these intervals would be distinctly undesirable.

Perhaps the greatest objection to a short term is that it discourages able persons from seeking office. While our economy was expanding geographically, the security which any particular job offered was of small consequence. If one lost his job there was always something else to do and a well-defined frontier on which to do it. But over the past generation, and particularly in the past decade, the desire for security has been recognized as an exceedingly important human motive and has manifested itself in a wide range of social legislation. This legislation, however, is seldom applicable to an elected official. To him security is to be found principally in a long term of office. Without a long term he will demand a higher salary or other rewards of office sufficient to compensate for insecurity. Thus the public pays a high price for a short term of office, either in the form of a salary large enough to attract a capable person to an insecure job or in the form of poor service from an incapable person whose opportunities to make a living outside the public service are so poor that the office becomes attractive in spite of this deficiency.

There are other respects in which the public pays heavily for a short term of office. Elected officials seldom fail to seek reelection. But to be reelected usually requires considerable handshaking, letter-writing, and speaking on behalf of oneself and others on the party ticket. All of this takes time, and it is accepted practice that much of the time shall be taken from regular office hours. The result is that many elected offi-

cials are paid largely for seeking reelection. Of course the shorter the term of office the greater this waste of public funds tends to become.

Fortunately for the general public, as well as for assessors themselves, these efforts at reelection are by no means unavailing. The average assessor serves at least two terms. If he did not, the public would pay not only to compensate for insecurity of tenure and for the time spent on a reelection campaign but also for the training of a new assessor every few years. A newly elected official seldom knows as much about his job as his predecessor did upon retiring from office. In some cases it may not take long to overcome this handicap; in others it may take the whole term of office, especially when real property is not subject to annual revaluation. Whatever the training period, the public pays for it; and the longer it is relative to the term of office the less the chance that the investment will be recovered in the form of superior service during the remainder of the term. The cost of training officials is at its maximum where a short term of office is combined with a prohibition against successive terms, and reaches an unconscionably high level in New Mexico, where each quadrennial revaluation of real property must be made by a new assessor.

It is possible, of course, to have too long a term of office. Excessive security of tenure tends to make some people careless and indolent, and a long term may keep in office a person who is incompetent but against whom it is difficult or distasteful to bring effective removal charges. Just where lies the balance between too short a term and too long a term is impossible to say. Perhaps the ideal term varies from one state to another, but, as indicated in our recommendation, we are of the opinion that it usually lies between four and eight years.

The ideal situation, however, is one in which the term of office is adjusted not only to the circumstances peculiar to a particular state or a particular assessment district but also to



the circumstances peculiar to the particular person who is chosen to fill the office. This adjustment is substantially achieved by means of an indefinite term with the provisions for removal suggested in our next recommendation. Such a term, although probably never applied to elective offices,<sup>37</sup> is readily applicable to appointive offices. It combines a reasonably secure tenure for capable incumbents and a fairly simple removal of incompetents.

***6. Assessors should be removable for good cause, by the appointing agency if appointed, by the electorate and by the courts or the head of the state tax department if elected.***<sup>38</sup>

Everyone is agreed that there are some circumstances under which a public officer should be divested of his office and that the machinery for removal should be established to meet such an eventuality. There is, however, considerable room for controversy as to the machinery itself and the provocations for setting it into motion. On these two points, there is no single rule applicable to all states.

The causes for which removal is permitted ought logically to vary with the term for which the officer serves. With a one-year term it might be sufficient to permit removal only for malfeasance (illegal action) or wilful nonfeasance (failure to perform a legal duty), for the opportunity of removal for misfeasance (improper performance of a legal act) or other less imperative reasons shortly presents itself upon expiration of the term of office. At the moment that his term expires, an incumbent can be removed from office with or without cause, and the person or persons responsible for removing him are

<sup>37</sup> The closest approach to election for an indefinite term seems to be found in the provisions of the California Constitution governing the election of justices of certain courts. Shortly before expiration of his term of office, such a justice may declare his candidacy for a succeeding term. The electors then vote "yes" or "no" on this one candidate. If the majority vote "no," the Governor appoints some one else to fill the office until the next regular election. If an incumbent does not choose to succeed himself, the Governor nominates one candidate and the electors vote "yes" or "no" on him. If the vote is "no," the Governor appoints some other person as previously described.

<sup>38</sup> This recommendation was not adopted by the Association.

not even required to offer an explanation. Obviously, then, the more frequently such moments occur, the less the demand for removal powers at other moments.

At the other extreme is the indefinite term of office, which is held by an incumbent until he reaches the age of compulsory retirement (if any), dies, resigns, or is removed. It is clear that broader powers of removal need to be available under these conditions. As a matter of fact, officers who are appointed for an indefinite term ordinarily hold office under laws granting unlimited powers of removal to the appointing agency. We are of the opinion, however, that removal should never be permitted except for good cause.

It has already been suggested that malfeasance and nonfeasance may be the only "good causes" for dismissal of officers serving very short terms. Improper conduct, incompetence, insubordination (if the assessor is legally subject to external control), and inefficiency are the less imperative grounds for removal which may properly be introduced, in somewhat the order of listing, as the term increases from the minimum of one year to the maximum indefinite term. Under no circumstances should removal for religious, racial, political, or purely personal reasons be sanctioned. In order to guard against improper exercise of the removal power, the agency exercising it should be required to state the cause or causes in writing and to grant the official a public or private hearing on request.

The only other major question of removal policy is where to lodge the authority to issue a removal order. The principle which seems most helpful in answering this question is that the one who selects an officer should have the authority to remove him. This principle can be applied to both elected and appointed officers; officers may be made subject to recall by the electorate if elected to office and to removal by the appointing agency if appointed to office. American experience with the recall has clearly demonstrated, however, that it is not effective as applied to administrative officers. The electorate is seldom sufficiently informed concerning the conduct of

these officers to act with discrimination; and the cost of informing them accurately, even supposing that it is possible to do so, is prohibitive. Consequently, we believe there is need for supplementation of recall procedures with some more orderly and deliberate process of weighing the issues and arriving at decisions. Either the courts or some presumably well-informed administrative tribunal, such as a state tax commission, should be qualified to serve in this capacity.

***7. The assessor's compensation should take the form of a fixed annual salary, not fees, commissions, or per diem allowances.***

The remuneration of public officers by means of fees was a common practice a generation or two ago. The officer usually collected the fees directly from the public, paid all of the expenses of his office out of them, and kept what was left for his personal use. This practice has now all but disappeared. With few exceptions, officers collecting fees are required to turn them over to the public treasury, the expenses of their offices are taken care of through the regular budget, and the officers themselves are paid fixed annual salaries. Although assessors, as far as we are aware, have never collected fees directly from the public except when they have served also as tax collectors, some of them have been and still are receiving specified commissions out of the public treasury and are using these for the payment of office expenses and to compensate themselves for their efforts. Thus many of the objections which have been raised against the fee system are applicable to the commission method of compensating assessors.

We have already suggested the similarity of commissions and piece-work wages. Both are intended to call forth the best efforts of the employee and to provide equal pay for equal work by varying the compensation of workers of different degrees of skill and diligence. But the analogy should not be pushed too far. Let us see, for example, whether both do provide equal pay for equal work.

Sewing buttons on a shirt is an occupation which is well suited to piece-work wages. Each shirt carries the same number of buttons in the same locations. Consequently, it is fair to say that an employee who finishes twice as many shirts as another should receive twice as much pay. But there is no similar work unit in the assessing field. One Missouri assessor is paid the same per parcel of real estate as another, although the first may be listing a lot in a vacant subdivision and the other a 320-acre tract of timber; one Alabama county assessor is paid the same per dollar of tax collections as another, although the tax rate may be twice as high in the first county as in the second; and Kentucky assessors are paid the same per dollar of assessed valuation, although it may be more difficult to assess a \$100,000 distillery at Frankfort than to assess a \$1,000,000 office building in Louisville. Furthermore, great variations in the quality of assessing, unlike variations in the sewing on of buttons, go virtually unheeded. There is no reason why two assessors should receive the same pay for equally large assessment rolls if one has a well equalized roll and the other has not.

The second purpose of piece-work wages is to call forth the best efforts of the employee. The more buttons one can sew on a shirt, the more money he can earn; the more taxable property the assessor can put on the rolls, the larger his commissions. But again the analogy is weakened by the absence of a simple standard of quality and of a homogeneous work unit on which to base the assessor's compensation. A certain amount of assessed valuation can easily be put on the rolls, but the last hundred thousand dollars, for each of which the assessor is paid no more—and possibly less—than for the first dollar, may be added with great difficulty. There is the danger, then, that the assessor will content himself with skimming the cream. He is willing to forego his commissions upon the last hundred thousand dollars, ignoring the fact that the public loss in taxes is fifty to a hundred times as great as his personal loss. There are even cases in which the cost of assessing certain

property exceeds the assessor's commissions, and such property is almost certain to go unlisted, with profit to the assessor but with loss to the government and demoralization of taxpayers.

A more subtle and perhaps even more important objection to the remuneration of assessors by commissions is found in the effect of this compensation plan upon the attitude of the public officer. His attention tends to be diverted from the process of serving the public to the process of serving himself. Not only his own actions but the actions of other people as well come to be regarded in the selfish light of their effects upon his compensation. Movements for professionalization and the advancement of administrative technique are stifled in such an atmosphere.<sup>30</sup>

Another objection to the fee system is that it may result in niggardly expenditures for office help, and none at all for equipment and permanent records, where the officer is allowed to retain the difference between his gross commissions and his expenses. On the other hand, it encourages extravagance where there is a maximum to the net commissions which an assessor may appropriate to his own use, as is sometimes the case. These are but the more apparent reasons why the office should be brought within the regular budget and made subject to the financial, personnel, and managerial controls to which other departments are subject.

The per diem form of compensation is popular in some rural areas. This is a satisfactory manner of paying part-time or temporary employees who work under close supervision, but it is open to objection for officials who are their own bosses. There is too much temptation to work short days and string out the job as long as possible. The fixing of a maximum number of days for which pay may be drawn—the standard remedy for this type of malingering—makes the per diem system approximately equivalent to an annual salary system

<sup>30</sup> Compare *Twentieth Annual Report of the (Kentucky) Department of Revenue, 1937-38*, pp. 12-13.

except that it definitely makes the job part-time and subject to the objections incident to such a job.

The defects inherent in the commission and per diem methods of compensating assessors bring us back to the fixed annual salary plan as the most satisfactory. Under the salary system, the assessor and his employers, the taxpayers, are aware of the exact compensation at the time of election or appointment. Comparison with the salaries of other assessors and other local officials is easy. The method of compensation contains no inducement to produce a poor and inequitable assessment; on the contrary, the best hope of retaining the salary at a fair level, or raising it to such a level if too low, lies in the performance of a competent and conscientious piece of work.

**8. *When the compensation of the local assessor is paid entirely by the local assessment district, it should ordinarily be fixed by the legislative body of the district.***

The authority to fix the salary of an assessor is usually either retained by the state legislature or delegated to the legislative bodies of the several local assessment districts. Sometimes both legislative bodies participate, the state legislature fixing a maximum, a minimum, or both, and the local legislative body exercising its discretion subject to these limitations.

The state government has a measure of responsibility for the assessment of property taxes—a responsibility which is greater in some states than in others, but which is not extinguished by the abandonment of state property taxes and of state grants-in-aid and shared taxes distributed according to formulas involving local assessed valuations. No state has given its local governments enough home rule in the field of taxation fully to escape this responsibility. It can be discharged through review, equalization, and supervisory activities, as discussed in subsequent chapters, or by assisting in the selection and perhaps in the removal of assessors, as suggested in this chapter. Conceivably it might also be discharged in some degree by state regimentation of assessors' salaries,

particularly by fixing minima below which they could not fall.

The committee doubts that determination of salaries is a particularly effective method of state control. If combined with considerable state participation in the selection of assessors, it might be quite effective; but it would probably be too much to ask the defenders of home rule to surrender both their prerogatives in the selection of assessors and their control of salaries payable from the local treasury. The outcry against mandatory expenditures has been loud in recent years, and it is founded on the sound principle that the level of government formulating a policy should finance it.

The argument against salary determination by the state legislature is not simply one of home rule on matters which are presumed to be predominantly of local interest. There is the further consideration that the legislature which attempts to fix salaries for a multitude of local officials is often burdened with a great many acts about which it cares little and knows less. Consequently, only those legislators who come from the assessment district in question pay much attention to a local salary bill, and other legislators are interested only to the extent that they engage in logrolling activities. This is an irresponsible procedure by which to fix salaries.

Obviously the latter objection is most appropriate to a situation in which assessment districts are dealt with individually rather than by classes; but it is not entirely inapplicable elsewhere, especially where the classification is so fine that some categories contain only one or two districts. Classification has the additional disadvantage of assuming similarity in many respects because of similarity in a single respect. Just because two districts have the same number of inhabitants does not mean that they are alike in area, wealth, diversity of property types, or in other respects which might logically affect the salaries of assessors.

Of course where the state government pays a portion of the assessor's salary, it will necessarily retain control over the amount of its contribution. Furthermore, the state legisla-

ture, under these circumstances, will necessarily prescribe a minimum local contribution, lest the local government slip out from under the load altogether. Whether these precautions take the form of outright determination of salaries by the state legislature or of state participation equal to a certain percentage of a prescribed minimum is probably of little importance from a practical standpoint. Prescribed minima tend to be accepted locally as maxima, but they do have a flexibility which is occasionally put to good use.

***9. The compensation of many assessors should be increased by means of (a) larger appropriations by existing assessment districts, (b) state aid to existing districts, or (c) the consolidation of districts of uneconomic size.***

The data which have been collected for the committee speak plainly for increases in assessors' salaries in many districts. It is simply ridiculous to entrust the assessment function, year after year, to persons as poorly paid as many assessors are. Occasionally a well qualified person may accept one of these offices as a means of performing a public service or to tide himself over an economic crisis; but, in the long run, assessment districts which pay poor salaries may expect to get incompetent persons who are incapable of earning a suitable living elsewhere or competent but disinterested persons whose incomes are only partially derived from this source.

It is much easier to propose that assessors' salaries be increased than to suggest acceptable means of financing the increase. However, there are at least three sources, any one or combination of which may be appropriate to a particular situation.

First, the governing body of the assessment district may make a more liberal appropriation for the assessor's salary. Of course this action will not follow simply from confronting a city council or board of county commissioners with this recommendation. In some instances restrictive state legislation must be amended or repealed: and in every instance the local



erning body, and eventually the public itself, must be educated to the importance and the difficulty of the assessor's task. While much progress toward these objectives can be achieved collectively through state associations and the National Association of Assessing Officers, their attainment depends even more upon the efforts of individual assessors. We know of no assessor who has succeeded in getting an increase in pay by pointing out how much better work he will do if he is paid more. Better work usually precedes better pay. In a sense, we are caught in a vicious circle—low pay results in poorly qualified assessors; poorly qualified assessors produce poor work; poor work merits small rewards. There are various ways of breaking the circle; but we are inclined to think that it will most often be broken by assessors who do good work for meager pay, convince governing bodies that good assessment is worth good pay, and thus establish new and higher standards for posterity.

There are, of course, many assessment districts which, however appreciative of their assessors' work, are simply unable to afford decent salaries. For such districts there are two alternatives: state aid or consolidation with other districts. There is already a substantial number of states in which local governments bear only part of the cost of assessing property taxes. A contribution by the state seems quite natural where the state government imposes property taxes for its own support, and it may be definitely desirable as a control device in states whose tax departments engage in extensive supervision of assessors. But as long as the state contributes on a matching basis and finances itself chiefly out of property taxes, the grant to any particular district is largely offset by the higher state tax which must be levied to finance the grant. The type of state aid of which we speak would constitute a genuine redistribution of funds, so that taxes paid into the state treasury by residents and property owners of wealthy districts would be diverted for the support of local government in poorer sections of the state. There is much to be said for this type of

state grant for the support of schools, for it can be maintained with conviction that every child in a democracy has a right to an education whatever the circumstances into which he is born. Similarly, everyone in a democracy has a right to live under an orderly government. Under the present scheme of things, an orderly local government is largely supported by property taxes. There may therefore be some circumstances in which state aid for the improvement of property tax assessment in the form of contributions to salaries is justified.

For the most part, however, state aid of the type suggested would simply serve to perpetuate assessment districts of uneconomical size. There would be no point in a program which would make possible a year's pay for a job which requires only six months or for a much more meticulous appraisal than the public demands. Instead, the low salaries resulting from part-time work should be raised by so enlarging the assessment district as to make a full-time job out of what were formerly two or more part-time jobs. Our proposals on this score have been set forth at considerable length in an earlier chapter and need not be repeated.

**10. *The salary of an assessor serving a definite term of office should be altered during his term only as part of blanket changes in the compensation of all officers and employees of the assessment district.***

The proposition that salaries of elected officers should be unchangeable during definite terms of office has commended itself to the legislatures of a good many states. It is based on the theory that one who has gone to the trouble and expense of an election is entitled to the prize for which he has run but to no more than that. The case for an inflexible salary for an appointed assessor is not so strong. However, both elected and appointed assessors are occasionally faced with antagonistic legislative bodies which, if empowered to do so, would force their resignations by threatening to reduce their salaries. Thus, benefits of a long term of office and of pro-

tection from summary removal from office can be completely neutralized by a reducible salary.

There are, of course, logical objections to completely inflexible salaries, especially when associated with long terms of office. Many salaries which appeared appropriate in 1930 seemed inappropriate four years later, and a salary which seems appropriate today may be quite inadequate in 1945. To deny any right to reduce or increase the assessor's salary during his term of office would, therefore, tend to throw his compensation out of line with those of employees not similarly situated and with the incomes of persons outside government employ. For this reason, and for the further reason that a completely inflexible salary would weaken the case for longer terms of office, we recommend that the assessor's compensation be subject to blanket changes in the compensation of officials and employees of an assessment district.

***11. Membership in retirement and disability benefit systems applicable to the general employees of assessment districts should be optional for assessors serving definite terms of office or at the pleasure of the appointing agency and mandatory for those serving indefinite terms with protected tenure.***

It is sometimes contended that elected officials should be ineligible for retirement and disability benefits. The argument seems to be that such officials are just politicians who are unworthy beneficiaries of pension plans and who seldom stay in the public service long enough to acquire substantial pension rights anyway. We think, however, that the distinction should not be between elected and appointed officials but between those serving definite terms of office or at the pleasure of the appointing agency and those who serve indefinite terms and are protected from summary removal. Members of the first group, whether elected or appointed, are likely to be in the employ of the government for only a few years. They may not wish to reorganize the insurance and savings plans which they have established before entering the public

service and which they will have to carry on after returning to private life nor to have a small amount deducted from their pay checks with little expectation that they will serve long enough to be entitled to matching payments by the government. Furthermore, there is some saving in the cost of administering the retirement system if it is largely confined to persons who remain on the public payroll for long periods.

On the other hand, many assessors who serve for short terms are reelected or reappointed time after time. There is no good reason to deny them the privileges of coverage in the retirement system just because they must go through what is largely a formality every two or four years. By making membership in the plan optional, these officials may make the choice which most appeals to them. If, however, membership were made optional for all employees, the coverage might be too small for a proper spreading of risks and an accurate prediction of benefits, while some of those most in need of pensions might fail to become members. This means that membership should be compulsory for some. Although there is no compelling logic in drawing the line between voluntary and compulsory membership at the point which we have recommended, there is a certain administrative convenience and popular appeal to the proposed classification.

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## *Chapter VI*

### **Personnel Administration**

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**E**FFECTIVE administration of an assessment office of any size requires something more than a well-planned organization and a competent assessor; it requires good subordinate personnel. The assessor who wishes to turn out an equalized assessment roll must select his subordinates wisely, see that they are properly adjusted to their positions, train them to work with maximum efficiency, advance them to positions of increasing responsibility and authority as their skills and knowledge grow, discipline them on occasion, and discharge them if they prove themselves a liability to the office. All of these activities call for the careful formulation and administration of a wide variety of personnel policies. This chapter is devoted to a description and appraisal of the most important of such policies.

The assessor almost never has complete authority over his subordinate personnel. The closest approach to this extreme is found in those few districts which pay their assessors a commission or a fixed amount per year and let them do the job as they please, hiring whomever they please at whatever rates they and their employees may agree upon. At the other extreme we find some districts in which the state legislature, the state tax department, the local legislative body, the local chief executive, the local civil service commission, or even the local electorate has assumed some one or more of the multifarious duties of personnel administration. The principal ways in which these external agencies restrict the scope of the asses-

sor's personnel work within his own department will be indicated in the following pages, although the number of offices to which a particular restriction applies is often not known and is not readily ascertainable.

#### POSITION CLASSIFICATION

Modern personnel administration begins with the preparation of a position classification plan. This plan is simply a classification of all departmental positions according to the duties and responsibilities which attend them. When it has been completed, all positions whose occupants are expected to do the same kind and grade of work are in the same class (e.g., junior appraisers) and all classes of positions to which the same *kind* of work is assigned are arranged in a series according to the *grade* of work assigned (e.g., junior appraisers, senior appraisers, principal appraisers).

The positions within any department which has recently been organized or reorganized in accordance with the recommendations of the preceding chapter can be classified largely on the basis of the statements of duties which have been prepared for them. However, such statements frequently do not exist and usually require supplementation when they do exist. A summary of the activities of each worker is therefore prepared by trained investigators from information acquired by questionnaires and interviews with the worker and his supervisors. Then a "class specification" is drawn up setting forth the title of the class, the general nature of the work, the duties and responsibilities of the positions in the class, and the qualifications required or desired of persons occupying the positions. Finally, the classes are arranged in series as described above.

It is important to note that this classification plan describes positions and not persons. A college graduate may be working as a janitor, but the position is still that of a janitor. Furthermore, the classification deals with positions as they actually exist and not as they ought to exist; creation of the right

positions is a problem of organization and not of personnel management. And finally, the position classification plan is not a mere listing of payroll titles, for such titles frequently give only vague clues to the work performed by those upon whom they are conferred.

A position classification plan can be, and sometimes is, prepared within a single department under the direction of the department head. As a matter of practice, however, formal plans of this sort, at least within the local government field, are usually prepared by a personnel agency serving all departments of the government. Preparation by a central personnel agency not only has the virtue of bringing special skills to the classification task but also promotes interdepartmental uniformity to the extent that the work of the several departments is comparable. Such an installation is seldom successful, however, unless the advice and cooperation of department heads is invited and freely given.

### THE PAY PLAN

The position classification plan is very closely related to the pay plan; in fact the demand for equal pay for equal work and for graduation of pay with differences in skills and responsibilities has had much to do with the origin of position classification.

The typical pay plan provides a rather narrow salary range for each class of position. Thus the scale for a junior clerk may be from \$100 to \$120 a month, with \$5 increments within this range. A new employee assigned to a position in this class will ordinarily be paid the minimum of \$100. As he gains in proficiency and experience, he will be advanced to \$105, then to \$110, \$115, and finally to \$120. Beyond this he cannot go without being promoted to another class, say to the senior clerk class. If so promoted, he will start out at the minimum salary in his new class, which, because of the more exacting duties and larger responsibilities of the class, may be, say, \$130.

The example just cited illustrates a second principle of the standardized pay plan. Each class of positions which is in a series is so related to the other classes in the series that promotion to a higher class brings a salary increase, and demotion to a lower class a salary decrease. In other words, there is no overlapping of the pay schedules for different classes within a single series; the junior clerk with the longest and best service record gets less than the rawest recruit in the senior clerk class.

The establishment of proper and acceptable relationships between the salaries of persons who are not only in different classes but also in different series is a more delicate and empirical task. It is simple enough to say that two junior appraisers should get approximately the same salary and that a senior appraiser should get more than a junior appraiser, but it may be rather difficult to say whether a junior appraiser's salary should be greater than, equal to, or less than the salary of a junior accountant. The correct answer depends largely upon factors of supply and demand. If the supply of appraisers is relatively small and the demand for them by private and other governmental employers relatively large, then the salary schedules for appraisal classes will have to be higher than the salary schedules for accountant classes *need* to be. On the other hand, if the supply and demand factors favor accountants, their series will have to be accorded higher pay than the appraisal series in order to secure qualified accountants without overpaying appraisers.

Since these supply and demand factors also determine salaries in private employment, it is customary, in the installation of a standardized pay plan, to make a study of local pay rates outside the public service for comparable types of work. For types of work which are peculiar to the public service, the comparison is necessarily restricted to the pay plans of other governments of comparable size and type. When pay rates in different localities are used in the study, it is common practice to make adjustments for differences in cost of living. Similar



adjustments can properly be made for differences in working conditions, security of tenure, pensions, sick leave, etc., although the difficulty of evaluating such things in monetary terms is sufficient reason to ignore them in most instances.

Standardized pay plans are frequently prepared for the entire administrative branch of a governmental unit by a central personnel agency or finance department, with the advice and assistance of department heads. Then, perhaps after some modifications, the plan is given effect by executive order or by resolution of the legislative body.

There are, of course, many less orderly procedures for the determination of compensation in local assessors' offices, ranging downward to the point at which each employee bargains individually with the authorities. Furthermore, there are several types of agencies in addition to the local legislative body and the chief executive which establish the salary schedules in various assessing departments. Among such agencies are the state legislature, which commonly determines the salaries or per diems of subordinates in county and township offices, the state tax department, which may fix salaries of subordinates in at least two states when county boards fail to provide the necessary appropriations,<sup>1</sup> and the assessor himself where he is given a lump-sum appropriation and is not responsible to a superior administrative officer.

### RECRUITMENT

The process of recruiting new employees for assessing departments is seldom governed in detail by state laws or local ordinances. Under these circumstances, practice varies widely not only among different offices but also from time to time within a single office, and it becomes virtually impossible to describe the process in anything but the most general terms. For this reason, it seems advisable to describe recruitment procedures in detail only for those assessment offices with formal merit systems.

<sup>1</sup> *Colorado Revised Statutes*, 1921, sec. 8820; *Ohio General Code*, sec. 5548.

Recruitment procedures are substantially similar among assessing departments which are subject to formal merit systems. In a typical situation, the assessor notifies the central personnel agency that he wishes to employ, say, a junior appraiser. If there is in existence a list of persons who have recently qualified for this position, the personnel agency certifies to the assessor the first three names at the top of the list.<sup>2</sup> From these three the assessor makes his appointment, probably after interviewing the candidates. The new appointee serves in a probationary status for six months, during which time the assessor may dismiss him for any cause. At the end of six months the employee's status becomes that of a regular or permanent employee, subject to lay-off or dismissal for such causes as are specified in the civil service laws and rules.

In case an eligible list is not in existence when the assessor's requisition is received, the personnel agency will proceed to establish one. After examination of the class specifications and consultation with the assessor, the personnel department prepares an announcement of the vacancy. The announcement sets forth the title and salary of the position, the duties and responsibilities of incumbents, the minimum qualifications which will be acceptable, and the additional qualifications which are desired. All persons who consider themselves qualified are invited to apply.

When the personnel agency checks the applications it receives, some candidates are eliminated because they do not possess the minimum qualifications required. The rest are notified to appear at a certain place and time for an examination. This examination may be in several parts, but its main section usually consists of an information test about the kind of work performed in the position for which the candidate is applying. Thus a candidate for an appraisal position is examined upon the principles, methods, and problems of appraisal.

<sup>2</sup>A few civil service jurisdictions practice the "rule of one," i.e., require the certification of the top name only; but this is neither as common nor as widely approved as the procedure described in the text.

ing. For a map draftsman, a demonstration or proficiency test usually forms an important part of the examination. When positions involve duties that bring the occupants into supervisory posts or contacts with the public, it is customary to give an oral test or interview for the purpose of examining the personal qualities which are not revealed by a written test. Physical examinations, which have added significance when employees acquire pension rights with civil service status, are commonly required.

After the examination has been completed, the scores which each candidate has received on the different types of tests are weighted and averaged to determine the final ranking on the eligible list. It is from this list that a certification of three names is made to the assessor who has requisitioned an employee. If the assessor desires to appoint several employees, the usual procedure is to certify two more names than the number of employees to be selected, although some personnel agencies are authorized to certify a somewhat larger number of names so that the administrator is given more latitude in his appointments.

There are now approximately 337 active local assessment districts in which a merit system is applicable to the general departments of government, including the assessor's office. (See Table 25, page 389, and Figure 9.) However, it is probable that the assessment offices of a few of these districts are so small that they either have no subordinates or have no subordinates within the categories to which the merit system is applicable;<sup>3</sup> and, on the other hand, there may be a few assessment offices in which a formal departmental merit system has been installed and operated by the assessor rather than by a central personnel agency. At any rate, only an insignifi-

<sup>3</sup> In many jurisdictions each department head is allowed one subordinate—a chief deputy or a confidential secretary—who is in the so-called "unclassified service" and as such is outside the merit system. Temporary employees, too, are often in the unclassified service; but probably the most extensive exemptions in local assessment departments are to be found in Ohio, where all deputies and assistant assessors are outside the merit system.

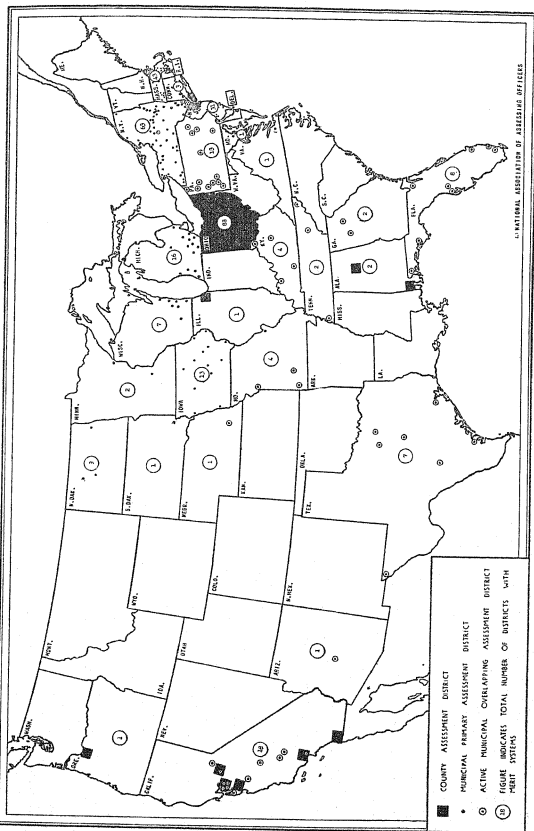


FIGURE 9. FORMAL MERIT SYSTEMS IN LOCAL ASSESSMENT OFFICES

cant fraction of the total number of assessment districts in the United States operate under a merit system. But this small number includes a considerable proportion of the large assessment districts of the country. For example, 70 out of the 150 active assessment districts with 1940 populations of over 100,000 have formal merit systems in their assessing departments; and these 70 districts, together with the 267 smaller districts with such systems, contain 35 per cent of the population of the United States.

The assessor does not always have the authority to appoint his subordinates, even within the restrictions just described. There are many cities in which the mayor or manager has the nominal authority to appoint all employees, and many counties as well as cities in which the commission or council has similar powers. Even the voters occasionally participate in the selection of subordinates, for assistant assessors are actually elected to office in first-class Pennsylvania township assessment districts and in the rural townships of Illinois counties with populations exceeding 150,000.

#### PROMOTIONS, DEMOTIONS, AND TRANSFERS

Many department heads think of personnel administration largely in terms of recruitment. It is true that the recruitment process tends to set the tone for all personnel work within a department, but progressive administrators are paying increasing attention to the handling of personnel between the time they enter the service and the time they leave it. During their period of service, employees need to be given the incentives to make their maximum contribution to the work of the department. These incentives may be the positive incentives of reward, chief among which are increases in pay and promotion, or the negative incentives of punishment, such as reprimands, suspensions, and demotions.

The head of a small assessing department is in a position to know his subordinates personally and to reach decisions on rewards and punishments without assistance. But in large de-

partments, the assessor deals with most of his employees through the medium of supervisors. Under the latter circumstance, it is difficult to insure fair and equal treatment of all employees without some uniform system of evaluating their work. Reports of performance, or "service ratings" as they are usually called, are intended to fill this need.

The efficiency of employees whose operations are of a routine character can be judged almost entirely on their production records; the typist who produces the most letters is often the most efficient and is deserving of first consideration for pay increases and promotions. However, a great deal of work in both public and private offices is not susceptible to quantitative measurement, and it is here that employee evaluation is most difficult. Management experts have therefore been forced to develop evaluation systems which have little to do with production records.

The evaluation systems now in use for governmental administrative employees fall, for the most part, into two classes. The first involves what is known as a graphic rating scale. A supervisor is provided with a form for each of his subordinates. On the form are listed some ten or fifteen attributes that make an employee valuable to the department, such as neatness, punctuality, ability to follow instructions, ability to cooperate, and initiative. Opposite the statement of each attribute is a scale with steps ranging from poor to excellent. At periodic intervals, the supervisor rates each subordinate by placing marks at the appropriate places on these scales. A composite rating is arrived at, which, when compared with the ratings of other employees, is intended to indicate a person's relative efficiency.

Chiefly because of the vagueness which characterizes some of the qualities given on a graphic rating scale, some administrators prefer a second type of rating form, known as the checklist type. On such forms are listed, in short, terse phrases, employee qualities and habits, and supervisors report the performance of a particular individual by check marks in-

dicating which of these qualities and habits he possesses. A final rating is arrived at in a summation of the marks. The most widely used check-list service rating forms were devised by J. B. Probst and bear his name. Such statements as the following appear on Probst forms: "Nearly always late"; "Work always up to date"; "Understands instructions readily." Beside each statement are small squares in which marks may be placed by each of an employee's supervisors.<sup>4</sup> A formula supplied with the system produces a final rating.

It is generally recognized that the success of a service reporting system depends less upon the forms which are used than upon the care with which supervisors rate their subordinates and the willingness of department heads to give the reports weight in reaching decisions concerning the efficiency of their subordinates. Careless rating may be worse than nothing, and rating will soon become careless if the reports are ignored by the department head. Here, as elsewhere in the personnel field, the services of a central personnel agency can be utilized to good advantage in the installation of the system and to a lesser extent in the supervision of the process, but it is only when the department head lends his support to the program that it can be expected to serve its intended purpose.

One of the principal purposes of a service rating system is to provide the department head with the information which will permit him to base promotions on merit. The assessor who has only a few subordinates can promote on merit simply by canvassing his own observations, but in large offices the assessor seldom knows enough of the work of rank and file employees to rely upon this procedure.

When the head of a large department wishes to make promotions in an impartial, objective fashion, he usually uses one of three procedures. Two of these procedures require the

<sup>4</sup> If the employee were supervised directly by the assessor, there would be a check in only one such square; but if he were supervised directly by a division head, both the division head and the assessor might make entries. In each instance, from one to three persons immediately above the employee in the organization hierarchy are supposed to make the evaluation.

establishment of definite lines of promotion—for example, from the junior appraiser class to the senior appraiser class. The first involves promotion of that person who has been a junior appraiser for the longest period of time. The second involves promotion of that person who has had the best service record, say, over the past year. The third procedure is to give a promotional examination. A promotional examination is similar to an examination for the recruitment of a new employee, except that it is not openly competitive but is restricted to persons already working in the government service or in the department or to an even smaller group of employees within the department. Promotion by examination is almost always blended with the other two promotional methods either by restricting the examination to persons with seniority or good service records or by giving some weight to these qualifications as well as to the grade received in the examination.

Demotions are the opposite of promotions. They involve removal of an employee from a position in one class and assignment to a position in a lower class in the same series or to a class in another series for which a lower compensation is provided. Demotions occur because of unsatisfactory work, curtailment of work, and inadequate appropriations, and are occasionally resorted to as a disciplinary measure. They are used infrequently and only for exceptionally good cause, since administrators generally recognize that they seriously undermine employee morale.

While promotions may be visualized as upward movements and demotions as downward movements, transfers are horizontal movements of employees. They are illustrated by the movement of an employee from one position to another within the same class, such as the transfer of a junior stenographer from the assessment department to the building inspector's department, or from a position in one class to a position in another class receiving comparable pay and involving somewhat comparable duties, such as a transfer from the junior real estate appraiser class to the junior personal property auditor



class. Transfers, like demotions, are employed for various purposes. The purpose may be to find a more suitable job for an employee who is performing unsatisfactorily in the position for which he was recruited. It may be to separate employees or an employee and a supervisor who are incompatible. It may be to give the employee a well-rounded training in the work of the office so that he will be competent to assume a position of greater responsibility. Or it may be to adjust the personnel to differences in the volume of work within different divisions of the same department or within different departments of a governmental unit.

### IN-SERVICE TRAINING

Where a merit system of recruitment is employed, a person entering the assessment department will have met certain minimum standards of pre-entry training. However, it is usually impossible to get employees who are trained in all of the fine points of a job, and frequently the most satisfactory employees in the long run are those who come to the job with a general background of training and experience and a capacity to learn and to adapt themselves to new situations but without special training or experience in assessing. It is for these reasons that in-service training—training on the job—is receiving so much attention from progressive administrators.

The training of permanent employees in small assessment offices is an informal and more or less continuous process. The assessor or his chief deputy closely supervises the work of new employees, corrects mistakes, and makes suggestions for improvement; the employees learn largely "by doing." Temporary help, on the other hand, is likely to receive special instruction even in the smaller offices. It is customary for the assessor or an assistant to give one or more lectures on the use of forms, official "manners" which have proved successful in obtaining the cooperation of taxpayers, and the like. This training period is often formalized in some degree in order to impress the temporary workers with the sincerity of the

assessor and the importance of the task to which he is assigning them.

Much more elaborate in-service training programs have been conducted in many of the larger assessment offices. Illustrations are found in a series of forums currently being held in the office of the Minneapolis assessor,<sup>5</sup> annual schools for personal property assessors and a short course for building appraisers conducted by the assessor of San Diego County,<sup>6</sup> and real estate assessment courses sponsored by the New York City Tax Department.<sup>7</sup> Wayne University in Detroit and New York University have recently offered courses in assessment practice in which city assessors have served as faculty members, and in which assessment department employees have enrolled in substantial numbers.

Other methods by which assessors seek to train their own subordinates include the distribution of manuals, organization charts, and flow charts for study by employees; the transfer of employees from one position to another so that they get a well-rounded training and an understanding of the work of the several divisions; the employment of "internes" for a period of apprenticeship; the encouragement of employees who are interested in correspondence courses, night school courses, and university evening classes; and the holding of frequent office conferences of a more informal character than the schools and forums described in the preceding paragraph.

Many assessors also endeavor to give their subordinates the opportunity to participate in in-service training programs designed primarily for assessors themselves. For many years state associations of assessors, state tax departments, and municipal leagues have been sponsoring assessors' conferences; and, frequently with the active cooperation of the state university, these have become increasingly of an instructional character in recent years. Opportunities to join the National Association

<sup>5</sup> *Assessors' News Letter* (1940) v. 6, p. 81.

<sup>6</sup> *Ibid.*

<sup>7</sup> *Ibid.* (1938) v. 4, no. 3, p. 4; (1939) v. 5, p. 52.

of Assessing Officers and to attend its national and regional conferences have been opened up to subordinate employees by a number of department heads.

#### HOURS OF WORK, VACATIONS, AND SICK LEAVE

Hours of work are usually established by customs or regulations which apply throughout the local government service. About the only problem in this field which may be peculiar to the assessing department is that of overtime. Because of the statutory dead lines which the department must meet, it is frequently necessary for employees to put in considerable amounts of overtime at certain periods of the year. Governments rarely provide extra pay for extra work, with the result that compensation for this overtime usually takes the form of time off during slack seasons. Some assessors, by careful planning, have eliminated practically all overtime work.

Paid vacations are a common feature of public employment and are widely regarded as beneficial to both employer and employee. Some small local governments make no provision for vacations but allow officers and their subordinates to "take off" a day now and then, and these days may add up to a week or two. The statutory dead lines which create a problem of overtime simplify the vacation problem in the assessor's office by giving rise to slack seasons.

Paid sick leave is another of the amenities commonly found in the public service. Large governmental units usually have formal sick leave policies, and others seldom drop regular employees from the payroll during temporary absences due to sickness. Definite sick leave rules usually provide for a certain amount of leave for a given period of service, say one day per month, which is allowed to accumulate until a maximum of perhaps 60 or 90 days is reached.

#### GRIEVANCES AND DISCIPLINE

In governments with formal merit systems, it is common practice to establish a grievance procedure for those employ-

ees who wish to register complaints against their fellow employees, their supervisors, or the department head. The department head or an assistant who handles personnel problems is usually given the responsibility of hearing and disposing of complaints in the first instance. Occasionally an appeal may be taken to some agency outside the department. Where formal merit systems do not exist, the grievance procedure is likely to be informal or nonexistent.

A justifiable grievance may call for disciplinary action; or such action may be taken on the initiative of the department head himself because of infraction of orders, insubordination, disloyalty, or dishonesty on the part of his subordinates. The mildest sort of discipline is a mere reprimand. Suspension (a payless "vacation"), reduction in pay without demotion, demotion, and dismissal are other disciplinary measures of increasing severity.

#### TENURE AND SEPARATIONS

The average period over which subordinates in assessment offices are continuously employed is undoubtedly rather low as compared with similar averages for other public offices. There are three reasons for this: (1) Assessment is in considerable measure a seasonal occupation, with the result that large percentages of the personnel are commonly dismissed or laid off after working only a few weeks or months during the assessment period; (2) in addition to this seasonal variation in employment, there is a cyclical variation occasioned by the fact that the assessors of half the states are prohibited from changing their real estate valuations in certain years; (3) few assessment offices are under formal merit systems, and employees almost never enjoy protected tenure where such a system does not exist.

The seasonal character of the assessment task is due largely to the fact that most property is assessed as of a certain date. Starting the assessment work well in advance of this date might smooth out the seasonal cycle, but assessors are reluc-

tant to do this. Unpredictable changes in ownership, situs, and value may occur between the time an assessment is made and the assessment date, necessitating revision or cancellation of the assessment. Furthermore, taxpayers can hardly be expected to report their property holdings as of a future date, and most assessors rely heavily on personal declarations in the assessment of personal, if not of real, property. An alternative method of eliminating seasonal variations would be to stretch the original assessment task over the whole year *following* the assessment date. But this is hardly feasible. The assessor would find it difficult to determine ownership, situs, and valuation facts of ten or eleven months ago; and the tax collection process would be unduly delayed. Consequently, the laws of all states require that assessments for a given year be completed shortly after the assessment date. Discovery and appraisal work is therefore concentrated in the first few weeks following the assessment date, and the clerical work of preparing the assessment and tax rolls is concentrated in the remaining days or weeks prior to the billing of taxes. One result of this practice is a group of seasonal, part-time employees engaged in the original assessment process—a group probably at least as large as the group of full-time employees.<sup>8</sup>

Biennial and quadrennial work cycles are found in many states, and triennial and sexennial cycles in one state each, as the result of laws prohibiting the revaluation in certain years of real estate which has not undergone some unusual change.<sup>9</sup> The typical law provides that the real estate rolls shall be revised in a given year but that the valuation columns

<sup>8</sup> A questionnaire sent to several hundred assessors in the summer of 1937 contained a section which sought to reveal the extent of seasonal employment. Eliminating returns from states in which real estate is not revalued annually and all returns in which it appeared probable that the question had not been correctly interpreted, it was found that there were 1664 seasonal employees in 86 offices, as compared with 1525 full-time employees, department heads excluded. These figures probably somewhat understate the preponderance of part-time employment; the sample does not include enough small offices to be entirely representative, and the ratio of seasonal to full-time subordinates seems to be a little larger in small offices than in large ones.

<sup>9</sup> See *Assessors' News Letter* (1939) v. 5, no. 3, p. 5; no. 4, p. 7.

shall be copied in the following year (or three years) except for the addition of new buildings and substantial improvements to old ones, the subtraction of property which has been destroyed or has been injured by fire or flood, and revisions necessitated by the subdivision or resubdivision of parcels.

The longer the interval between real estate revaluations, the greater the variation in employment tends to be. In many assessment offices a biennial revaluation schedule is met without any increase in payrolls. But quadrennial and sexennial revaluation schedules almost always cause fluctuations in employment. Data for two county assessors' offices in quadrennial revaluation states show extra employees in revaluation years numbering over three times as many as the employees regularly hired in non-revaluation years, while the corresponding ratio for three counties in Ohio, the one sexennial revaluation state, is a little over six.

Two states which prohibit, or at least do not require, annual revaluation of real property for tax purposes have made specific provision for smoothing out the work cycle. The laws of Arkansas prescribe biennial revaluation by county assessors, but they divide real property into two classes—urban and rural—and require that one class be revalued one year and the other the next. The Maryland law directs the State Tax Commission “to require that all property in the state be reviewed for assessment at least once in every five years” but permits the Commission to “order and enforce reassessments annually by classes or districts . . . so that all assessable property in every county shall be thoroughly reviewed at least once in every five years.”<sup>10</sup> In some other cases, particularly in biennial revaluation states, assessors have undertaken to do their own smoothing of the work cycle by neglecting personal property in a real property revaluation year.

The tenure of seasonal and cyclical employees in assessment offices depends principally upon the amount of work to be

<sup>10</sup> *Code of Public General Laws*, Art. 81, sec. 166 (8).

done; but the tenure of regular, full-time employees, in the absence of laws protecting them from summary dismissal, depends in large measure upon the tenure of the department head. A new assessor usually brings a heavy or complete turnover in subordinate positions, especially when he is not of the same political faith as his predecessor. If a standardized assessment system is employed, or if the department is large enough to confront the new assessor with an imposing administrative task, enough key employees are likely to be kept to prevent serious dislocations; but holders of routine positions or positions requiring skills possessed by many persons outside the public service have little protection against dismissal.

Civil service laws in the various governmental units invariably afford subordinate employees some protection of tenure. It is customary, in the first place, to require that the cause of discharge be stated in a written notice of dismissal and to prohibit discharges for political, religious, or racial reasons. From this point on there is considerable variation in legal provisions. In some jurisdictions the recipient of a dismissal notice may do nothing more than demand a hearing before his department head. Under other laws he may file with the central personnel agency a statement covering his side of the case, and his statement and the assessor's become public records. Or he may be given the right of a hearing before the civil service commission. The function of the civil service commission may be simply that of a sounding board. Or, in the event it finds the dismissal unwarranted, it may be permitted to do any one or more of three things: (1) recommend reinstatement, (2) place the employee's name on a reemployment list for certification to a vacancy in another department, or (3) order reinstatement with or without back pay.

Protection from summary dismissal is frequently associated with compulsory retirement and a retirement pension system, while the retirement pension system, in turn, is frequently

associated with accident and sickness benefits. The prevalence of such systems was indicated in the preceding chapter.<sup>11</sup>

### RECOMMENDATIONS

**1. *Each position in the assessing department should be classified according to the duties and responsibilities assigned it and should be given a class title and description indicating clearly the nature and level of the work.***

Position classification, according to a former member of the United States Civil Service Commission, is one of the two major foundations upon which present day public personnel management rests.<sup>12</sup> It is probably difficult for assessors to appreciate the importance which this authority attaches to position classification. The typical assessing department contains only a few positions and is somewhat insulated from other local government departments—conditions which tend to minimize the significance of this phase of personnel administration. However, assessing departments which have a dozen or more employees or which are closely tied into the administrative branch of a government employing 100 or more persons will undoubtedly find a position classification plan an important administrative tool in the development of equitable pay plans, minimum qualifications and tests of fitness for applicants for employment, lines of promotion and transfer, and in-service training programs. Smaller departments, too, will usually find enough benefits in such a plan and its by-products to repay the small effort involved in its installation.

One of the valuable by-products of position classification is its tendency to expose weaknesses in internal organization; the careful study required for position classification often discloses opportunities to increase efficiency by reallocation of duties and clarification of lines of responsibility and authority. Another by-product which may be anticipated from the

<sup>11</sup> See p. 166.

<sup>12</sup> Leonard D. White, *Introduction to the Study of Public Administration*, The Macmillan Co., New York, 1939, p. 326. The other major foundation mentioned is tests of fitness.



spread of position classification plans among assessment departments is a more descriptive set of titles for subordinate employees. Owing partly to the tendency of state legislatures to think of property tax assessment administration in terms of an assessor and one or two subordinates, a large percentage of the subordinates in this field bear the title of "deputy assessor." This fact makes departmental organization unintelligible to persons not intimately associated with it, and stifles any attempt at interdepartmental or intergovernmental comparisons.

***2. A standardized pay plan should be adopted for employees in the assessing department or, preferably, for all employees of the governmental unit performing the assessment function.***

One of the principal reasons for position classification is to facilitate the introduction of an equitable system of remunerating employees. The importance of such a system in the maintenance of departmental morale scarcely needs to be emphasized. If employees performing work of substantially the same quality and responsibility are paid different salaries, dissatisfaction is certain to arise and the efficiency of the organization will be reduced accordingly. A carefully prepared and administered pay plan, on the other hand, creates a feeling of fair treatment which is a real asset in the functioning of a department.

An equitable pay plan is no less essential to a small organization than to a large one. Indeed, the greater intimacy of employees in a small office means that unwarranted salary differentials will probably cause greater dissatisfaction than in a large organization, where relationships are more occasional and comparisons are more difficult to make. The effect of an inequitable pay plan will also be more damaging in an office staffed on a merit basis than in one filled by the patronage method. Employees who owe their positions to either personal or political favoritism lack a valid ground for complaint if others fare better than they do.

There are two principal alternatives to a standardized pay plan applicable to all employees of the governmental unit performing the assessment function: (1) Either the state or the local legislative body fixes individual salaries within the assessing department; (2) the assessor is given a lump-sum appropriation which he allocates among employees as he sees fit. The first situation is likely to lead to a great deal of personal lobbying and distraction of the legislative body from the activities which are really appropriate to it. The second is much to be preferred from the standpoint of the department head. It gives him an opportunity to formulate an equitable pay plan of his own in the light of his own peculiar insight into assessment problems; but, at the same time, it subjects him to the same sort of pressure from which it relieves the legislative body and may result in salaries within one department which are out of line with those in other branches of the local government.

**3. *The assessor should fill vacancies in his department by the appointment of persons who have demonstrated their fitness in appropriate examinations conducted by the assessor or, preferably, by a personnel agency serving all departments of the governmental unit performing the assessment function.***

No aspect of personnel administration has been given more attention than recruitment. This emphasis is probably justified. It is true that a great deal can be done to train unpromising recruits after they enter the service; but the assessor's office is not primarily a classroom nor is the assessor primarily a teacher, and it would be disastrous to assume that in-service training can ever fully compensate for improper selection of employees.

Few present-day administrators seriously question the primary objective of a merit system of recruitment, but there is room for considerable difference of opinion over the means by which the system may best be implemented. Some department heads may prefer to administer their own system; others may

prefer to be served in this respect by a central personnel agency which serves other departments of the local government, or perhaps even by a state personnel agency. Some may wish to rely heavily upon written examinations as a test of fitness; others may prefer to rely largely upon statements of previous experience, recommendations of previous employers, and oral interviews. Experience has not yet revealed the best practice in all phases of recruitment, nor is it likely that what is best for one local government or one position will prove best for all others.

For the most part, assessors are not called upon to decide whether they shall be served by an outside personnel agency; they either are or are not within a legal framework which imposes such a system upon them. If they are not, they can, however, usually decide whether to administer their own departments on a merit basis. A favorable decision should bring advantages to the public in the form of more equitable assessments by more capable employees. It should bring to employees the pride and satisfaction which come from the knowledge that they have been selected on merit. And the assessor himself should gain in prestige, personal security, and peace of mind from the improvement in office efficiency and the freedom from political domination which a merit system fosters.

The machinery for a departmental merit system of recruitment can properly vary in intricacy with the size of the office. In small offices, where the employment of new personnel is infrequent, an elaborate system of examination is probably unnecessary, although some written examination may be very helpful to the assessor when several persons are interested in a job and no one is obviously better qualified than the others. In a large office, where the recruitment of new employees is a task of frequent recurrence, the preparation of a simple set of rules will relieve the administrator of the burden involved in making a whole new set of decisions on each case and will reduce the pressure for suspension of the merit system in

particular instances. The elements of such a set of rules are set forth in the Appendix.<sup>13</sup>

The recruitment problem is simplified for the assessor where there exists a central personnel agency whose responsibility it is to announce a vacancy in the office, receive the applications of candidates, and weed out all but a few of the best candidates. There is some objection on the part of administrators—and even more on the part of persons seeking government employment—to the emphasis which central personnel agencies place upon written examinations. In particular, it is claimed that persons with little formal education and of mature years are handicapped when competing in a written test against persons recently out of school. In answer to this complaint, it may be said that the use of the short-answer type of question (true and false, multiple choice, etc.) in place of the free-answer or essay type has done much to reduce this alleged handicap and that no one has yet found a satisfactory substitute for the written test as an objective measure of qualifications for most of the jobs found in assessment offices. There are a few positions for which a written test is superfluous, but the number of such positions is easily exaggerated.

Also, it is often contended that the technicians hired by personnel agencies to compose, conduct, and grade examinations are not sufficiently familiar with the subject matter of public administration and that the department head could do these jobs much better. No doubt there are some assessors who are good enough personnel men to do an excellent job of examining applicants for employment in their offices. But there are probably a great many more who may be thoroughly competent as assessors but who know little of the techniques of examination. The obvious solution is to make the examination a cooperative project in which the personnel agency makes the technical decisions relative to methods of examination and the assessing agency collaborates by suggesting the

<sup>13</sup> P. 395.

fields in which applicants are to be examined, by assisting in the framing of questions, and by assisting in grading to the extent of providing the graders with correct answers to the questions.

More than offsetting these and other minor objections are the advantages which an administrator finds in a merit system of recruitment administered by a central personnel agency. With such a system, the assessor is not forced to incur the ill will of personal acquaintances whom he is unable to appoint to vacancies nor is he haunted by obligations to take care of party workers whose addition to the department may bring qualms to the hearts of the bravest of public officers. Instead, he is reasonably assured of receiving a short list of well qualified candidates with the opportunity to make his own selection from this list and, in the event a mistake in judgment has been made, to discharge the appointee within the probation period which is almost invariably associated with a formal merit system.

***4. Recruitment for important administrative and technical positions should be from as wide a geographical area as possible.***

The case against residence qualifications for assessors has been stated in the preceding chapter;<sup>14</sup> it applies equally well to the higher positions in offices large enough to require the delegation of important administrative and technical tasks to the assessors' subordinates. Again it should be pointed out that prior residence is a factor which tends in itself to qualify one for assessment work. However, to allow residence to outweigh all other qualifications, or to allow the usual prejudice against the employment of "outsiders" to compromise a true merit system of employment, will often result in the recruitment of inferior personnel and will seriously interfere with the development of a professional status and a career service in this branch of public administration.

<sup>14</sup> Pp. 173-77.

**5. *Promotions within the assessing department should be made primarily on the basis of merit, not seniority.***

The merit system should prevail not only in recruiting persons to fill the lowest ranks in the service but also in filling the higher positions. In some cases this may mean that vacancies in the latter positions should be filled only by open competitive examinations. In most large offices it means that such positions should be filled either by open competitive examinations or by promotions based largely on merit. It would be a mistake to assume that higher positions can always be satisfactorily filled by promotion, for the desired qualifications for one position may be quite different from those of persons satisfactorily filling positions on a lower salary level. Nevertheless, the expectation of promotion is a powerful incentive to effort and self-improvement, and its beneficial effects upon departmental morale should not be lost through a policy which favors candidates from outside the present office force over persons already within the department who are nearly as well qualified.

Of course the beneficial effects of promotion can be lost almost as easily by an ill-conceived promotion policy as by none at all. Promotion by seniority is the principal example of such a policy. It encourages employees to exert just enough effort to avoid being discharged, while it actually discourages self-improvement by failing to reward it in any material manner. Employees generally resent as inequitable any system which fails to distribute rewards with at least some regard for merits.

In the actual administration of a merit system of promotion, seniority will not be completely ignored. If practice does not make perfect, it at least tends to make more nearly perfect; and one who has a long period of service has a natural advantage over one who has been on the job only a short time. Service ratings, conferences with supervisors, and perhaps promotional examinations may be, and probably should be, relied upon rather heavily by most administrators in mak-

ing appointments; but few administrators will entirely ignore the experience qualifications of persons who have served the department faithfully over many years.

***6. Working conditions for the assessor's subordinates should compare favorably with those provided by the best private employers in the locality.***

One of the obligations which a government ought to accept is that of serving as a "model employer." This means that it should not only pay salaries which are at least comparable to those paid similarly qualified persons in private employ, but that the working conditions in public offices ought to be as good as those provided by the best private employers in the locality. This should not only help to raise standards elsewhere in the field of private enterprise, but it should pay dividends to the government by attracting good personnel to the public service and by improving the attitudes of those already on the job.

In some respects many local governments have failed to accept this role. Most city halls and county buildings now in use were constructed many years ago and have never been renovated, with the result that many are unsightly if not actually insanitary, while lighting, ventilation, and provisions for the personal comfort of employees are often inadequate. On the other hand, governments have been rather more generous, on the whole, than private employers in questions of hours of work, vacations, and sick leaves. The advances which have recently been made along these lines in many branches of private industry should not be allowed to reverse the latter situation.

***7. The assessor should plan and promote in-service training programs for his subordinates.***

Governments in the United States have been slow to recognize the need of their employees for special training to qualify

them for their work. The tradition that the public service is neither unique nor technical has persisted long after the disappearance of the frontier life which produced it. Gradually, however, the idea is gaining ground that the public service must command persons with specialized training.

To the extent that this training is made a part of entrance qualifications, it is beyond the immediate influence of the assessor. However, in a field as highly specialized as assessing, applicants for most positions in the service cannot be expected to have acquired as much training as might be desired. Education in such fields as civil engineering, surveying, land economics, architecture, industrial management, public finance, and accounting, and experience in real estate sales and management, appraising, contracting, purchasing, and the like will prove very valuable in an assessor's office. But no one can be expected to have been educated or to have acquired experience in more than a few of these fields, and the experts in any one field cannot be expected to apply their acquired talents immediately and unfailingly to the activities of a well-managed assessment office. In-service training is therefore of special value to new recruits, while to older employees it serves not only to refresh their memories of subject matters not recently studied but also to fit them for larger responsibilities by introducing them to fields in which they have had no formal education and no outside experience.

The assessor himself should furnish the inspiration and leadership in an in-service training program, although in many instances he will find it advisable to do very little of the instructional work. The chief deputy assessor, the various division heads, or even the students themselves may serve as instructors, lecturers, and discussion leaders. Active rather than passive participation by the permanent employees should be sought in the planning and conduct of the program, and the methods of the progressive educator rather than of the old-fashioned schoolmaster should serve as the model.



**8. *Disciplinary action for the violation of established rules and recognized standards of conduct should be administered promptly, fairly, and in certain terms.***

This recommendation scarcely needs explanation or defense. There may be many differences of opinion as to what rules of conduct should be adopted, but few will deny that a public office should observe some such rules and that they should be enforced without favor by appropriate disciplinary action. In a small department, it may prove helpful for the department head, upon taking office or upon hiring a new employee, to state the rules orally before the opportunity to break them arises. In larger offices, a typewritten or printed statement telling each employee what is expected of him in the way of punctuality, neatness, and conduct inside and outside working hours should be distributed to all employees.

**9. *Every effort should be made to minimize temporary employment.***

The committee has asked a number of the leading assessors of the country for their observations on the problem of part-time employment. Although a disposition to accept temporary employment as a necessary aspect of assessment administration was evident in some quarters, these assessors, almost without exception, united in condemnation of the institution. The comments of these practitioners are interesting and enlightening. One calls attention to inequalities in household furnishings assessments, which he ascribes principally to the fact that they are made by "seasonal and inexperienced" deputies. Another feels that temporary employees lack incentives for application to their work. "It is very seldom," he writes, "that people on a temporary basis are willing to do any more than just enough to get by while they are on the payroll." Even selection under a formal merit system does not seem to give much better results. After years of experience with such a system, one assessing officer has come to the conclusion that the persons taken from civil service eligible

lists for temporary work year after year "represent the siftings of labor" after other public and private employers have given permanent employment to all but the poorest of the "satisfactory" employees.

While selection from civil service lists sometimes fails to provide satisfactory temporary employees, selection by a local party organization has even less to commend it. The assessor is placed under pressure to create as many part-time jobs as possible, either to take care of the party faithful or to advance his own political future. In either case, the demands of efficient assessment administration are in danger of being overlooked. According to one assessor, when a party organization gets around to filling the part-time jobs the supply of talent is beginning to run rather low, for most competent party workers have been rewarded with full-time, permanent positions.

Other difficulties resulting from temporary employment are described in the following words by an assessing officer:

There is no question in my mind that one full-time man is equal to a number of part-time deputies. The field appraiser employed for a few months in the year is constantly looking for other jobs. After training him to be of some value, he leaves your employ, or else in order to exist he must deal in some other line of work, which many times can become embarrassing to the office or may influence his judgment as to assessments made. Considerable time is lost each year in reinstructing deputies who have partially forgotten, in the interim, what they were taught the year before. There is a definite lack of continuity in the mental process of the part-time deputies, as well as a lack of responsibility shown.

It is, of course, impossible, or at least undesirable, to staff the assessment department to meet a heavy peak load of work and then keep these employees on the payroll after the peak load has subsided. Instead, something needs to be done to eliminate the peaks or at least to reduce their altitudes. Changing the tax laws is one means of doing this. Changes which might be made include the following:

1. Provision for annual revaluation of real property. States now prohibiting changes in value (other than for new con-

struction, fire losses, etc.) more often than once in two, three, or four years would probably considerably raise the level of assessment practice, without appreciably increasing costs, by authorizing or requiring annual revaluations. This would permit continuous assessment by a small staff of permanent, well-trained employees.<sup>15</sup>

2. Elimination of statutory prohibitions against beginning work on the current assessment roll prior to a specified date. There is definite need for statutory deadlines *beyond* which the assessor cannot work on a given roll, but it is entirely unnecessary to prohibit him from starting work on the next roll until several months later.

3. Lengthening the period intervening between the assessment date and the date on which the assessment rolls must be opened to public inspection. There are some aspects of assessment work which can hardly be started before the assessment date. This is especially true of personal property assessment, since situs, ownership, and value tend to change rapidly and must ordinarily be established as of the assessment date.<sup>16</sup> Thus a heavy work load is concentrated within the period beginning with the assessment date and ending with the date on which the assessor must finish writing the rolls. The longer this period, the more this peak load can be flattened out. However, there are definite disadvantages to an excessively long assessment period.

4. Establishing one assessment date for real property, another for personal property. Proposals of this sort appear from time to time, less often with the purpose of reducing seasonal employment in assessors' offices than with the purpose of combining the advantages of a January 1 assessment date for personal property and the advantages of a spring or fall assessment date for real property. Ohio is, however, the only state with two assessment dates, and there it is of little importance

<sup>15</sup> For other advantages of continuous assessment of real property, see *Assessment Principles*, pp. 28-30.

<sup>16</sup> See *Assessors' News Letter* (1940) v. 6, p. 5.

because of the practice of sexennial revaluation of real estate. Other states have been deterred by the thought that such distinctions may violate constitutional uniformity clauses or that they will distribute tax burdens inequitably among people who exchange real property for personal property, or vice versa, between the two assessment dates. But the number of states in which real property may not be separately classified for tax purposes is small and is being gradually diminished, while the validity of the tax equity argument is doubtful where real property taxes are secured by lien and are allowed for in the prices at which parcels are sold.

5. Using average inventories as the basis of taxes on stocks of merchants and manufacturers. When personal property is assessable as of a single date, there is a great temptation for taxpayers to let their stocks run low on that date or to move them temporarily into another state where there is a different assessment date. The extent to which these perfectly legal devices are employed can often be ascertained by the assessor only by personal inspection on the assessment date or within a few days thereafter. If a month after the assessment date he finds a large stock on a merchant's shelves and the merchant claims to have purchased most of it during the past month, the assessor is forced to accept his statement or make a painstaking examination of purchase and sales records which may or may not be accurate. Temporary depletion and shifting of stocks to avoid taxes are less prevalent where there is an average inventory law, so that the necessity for a rapid blanket-ing of the assessment district on or immediately following the assessment date is largely eliminated.

6. More adequate provision for assessing omitted property and correcting undervaluations of listed property. In some states, property which is not put on the assessment roll during the first few months of the assessment year escapes all taxation for that year, and in very few states is there an opportunity to correct underassessments of listed property once the review period has come to a close. More liberal time allowances in

these respects should noticeably reduce the seasonal work load in the assessor's office. To allow the addition of omitted property ten or twenty years after the omission and to reopen questions of valuation long after taxes have been paid may be unfair to taxpayers and may encourage lax administrative practices and inaccurate budgeting, but an allowance of from one to three years in which to correct errors of judgment is accepted in the case of income and other state and federal taxes and should not be unduly burdensome in the case of property taxes.

7. Exempting all or certain classes of personal property. This is probably the most promising of all proposals to lessen temporary employment in assessment offices. There is no avoiding the necessity for concentrating the work of discovering and appraising some types of personal property into a period of a few weeks following the assessment date. The taxes on several of these classes, such as household furnishings, are thought by some to cause more trouble and expense than they are worth.<sup>17</sup> The part-time employment which they necessitate is but one aspect of the argument for eliminating them from the tax base.

The assessor has only a limited influence upon the legal framework within which he works. However, much can be done to lessen the need for temporary employees without changing that framework. Administrative practices contributing to this end include the following:

1. The creation of combination positions. In governmental services afflicted with part-time jobs it is always wise to see if some of them cannot be combined into full-time positions. Some assessment districts have combined the office of assessor with that of the treasurer, the sheriff, or the clerk, largely for the purpose of providing full-time work for one officer instead of part-time work for two or more. The same principle may be applied to the assessor's subordinate employees. Agree-

<sup>17</sup> For the conclusions of the assessor of Cook County on this subject, see *Assessors' News Letter* (1937) v. 3, no. 3, p. 1.

ments upon a division of working time may be made so that there will be no danger of an employee trying to obey two superiors at once. It is perhaps unwise to attempt to suggest the combination of positions which may be created, for each local government presents an individual case.

2. The transfer of employees with changes in the work load. The combination positions referred to in the preceding paragraph are permanent unions of somewhat dissimilar, part-time positions which are planned in advance and for which employees are specifically recruited. In many cases, however, it is difficult to foresee the needs of the assessing department with sufficient accuracy to meet them by this means. It may then be desirable to transfer employees from one department to another or from one position to another within the assessing department. Such transfers are greatly facilitated by a service-wide position classification plan, by common conditions of employment, and by a central personnel office to serve as a coordinating agency. They are also facilitated in some districts by the inclusion of the assessing office in an integrated finance department, or by the existence of a chief executive with broad authority over the entire governmental organization.<sup>18</sup>

3. The use of accounting records for the discovery and valuation of personal property. Assessors who attempt to assess all property "on view" and depend entirely upon this means of locating and appraising personalty can hardly avoid hiring a large number of assistants and blanketing the assessment district within a period of a few days immediately following the assessment date. Although this is perhaps the only practical procedure in rural districts, most assessors of urban districts have long since adopted the policy of assessing business concerns from their accounting records. Each taxpayer is required to file a personal property tax return, which is then checked in the office and occasionally in the field. Since the checking is mainly against accounting records, not property,

<sup>18</sup> See pp. 347-52.

and since these records are preserved for many years, the time at which the check must be made depends only upon laws limiting the period during which property omitted or undervalued in the taxpayer's declaration can be correctly listed on the assessment and tax rolls.

4. The use of spot checks in lieu of complete audit of taxpayers' personal property declarations. All taxpayers' declarations should be given what is known as a "desk audit," but few assessors attempt to check every return in the field. An attempt to superimpose a complete field audit on a desk audit would increase the peak load to much higher proportions than could possibly be handled by a permanent staff in the absence of legislation which would permit the field audit to be spread throughout the year or to be undertaken only after completion of the desk audit. A "spot check" may be the answer to this problem. Only occasional returns, picked either at random or because they "look suspicious," are audited in the field. Sufficient publicity is given to cases of error and fraud and sufficiently rigorous penalties are exacted from those at fault to discourage carelessness and dishonesty.

5. The use of machines for writing the assessment rolls and extending taxes. The installation of machines to supplant handwritten assessment rolls and laborious calculation of taxes often has the dual effect of reducing part-time employment and rendering less objectionable such part-time employment as remains. It is often possible to postpone enough of the work around the office to release a few employees for the short time required to turn out a mechanically written roll. Or, if it is necessary to add temporary employees to the force, they can be selected quickly on the basis of performance tests and their work can be checked for accuracy by means of mechanical controls. It is true that the installation of machines makes it virtually impossible to use the property appraisers to write the rolls—a combination of duties which is sometimes used to reduce part-time employment of appraisers—but such a combination usually means either that incompetent appraisers

are employed at salaries which are proper for relatively unskilled clerical work or that the rolls are written by persons who are paid much more than need be paid for that type of work. Machine installations, of course, are not inexpensive, but they usually result in annual savings which soon pay for them. Detroit reports a saving through machine installations of more than \$1,000,000 over a nine-year period, and Cook County, Illinois, reports a saving of \$3,750,000 over a five-year period.<sup>19</sup>

6. The scheduling of real property appraisal work—or the great bulk of it—for the several months preceding the assessment date and personal property appraisal work for the succeeding months. Although the laws of practically all states require that real estate be assessed at its value as of the assessment date and to its owner on that date, there is no reason why practically all of the work of assessing it, short of placing it on the rolls, should not be completed before the assessment date. Real estate changes hands infrequently, and little time and few stencils would be wasted if the ownership records were compiled before the assessment date, subject to correction as new deeds were recorded. Perhaps more important is the fact that real estate values change slowly, so that appraisals made several months ahead of the assessment date are usually about as accurate on the assessment date as on the date of appraisal. New construction, demolitions, fire losses, etc., which occur between the date of appraisal and the assessment date usually come to the assessor's attention in the normal course of events through the building inspector or fire department, and the valuation records can be changed accordingly. Thus by the time the assessment date arrives the assessor can be prepared to release the less specialized employees in the real property appraisal division and use them, say, for the desk audit of personal property tax returns.

<sup>19</sup> Kenneth J. McCarren, "How Much Is a Million Dollars?" *American City*, April 1939, pp. 71-73; George W. Mitchell, "Control of Local Assessed Valuation—The Property Tax Base" (in *State-Local Fiscal Relations in Illinois*, edited by S. E. Leland, University of Chicago Press, Chicago, 1941), p. 313.



**10. *The assessor should be authorized to dismiss employees in his department, but only for cause stated in writing. Where there is a central personnel agency, it should be authorized to recommend but not to order reinstatement.***

One of the principal objections of administrators and the general public to "civil service" is that it gives too much security of tenure to employees. Such tenure, it is claimed, makes employees slothful and indolent and removes the salutary fear of dismissal for inefficiency or for failure to cooperate with the administrator and other superiors in the organization. This objection is not without some foundation in fact. Originally, civil service laws were enacted to keep politics out of appointments and dismissals, and many of the laws designed to achieve this end did so only by sacrificing considerations of administrative efficiency. More recent laws creating central personnel agencies tend, however, to emphasize the constructive aspects of personnel management and give the administrator greater freedom of dismissal if not of appointment.

It should be recognized, though, that the benefits of security of tenure do not accrue solely to employees. Department heads and the public benefit in at least four ways:

1. The expense of training new employees is held to a minimum. This expense is difficult to measure, but it is a matter of general agreement that it is not negligible. Industrial executives estimate the cost of training skilled workmen, including damage to machinery, spoilage of material, slowing work of other employees, time of instructors, etc., at amounts ranging from several hundred to several thousand dollars per individual. The training cost in a government department is probably no less than in a business establishment.

2. Chief executives and department heads have trained staffs upon whom they can rely. Orders flow to employees who are familiar with the subject matter of their administrative departments and with its methods and procedures. On the other hand, the disorganization and confusion which accom-

pany high turnover of personnel handicap the policy determining officials of a government in carrying out the programs that they plan and propose.

3. Employee morale is maintained. There is a sense of security and contentment resulting from a guarantee of tenure that is reflected in high individual and departmental efficiency. Employees who fear dismissal for reasons unconnected with the quality of their service are naturally in a poor mental condition and are seldom able to apply themselves to their work with maximum efficiency.

4. Public service becomes attractive as a career. Ambitious and energetic men and women are interested in entering an occupational field where they have assurance of permanent careers. Tenure alone is not sufficient to attract well qualified persons to the public service, but it tends to compensate for the comparatively poor salaries paid to government workers in the upper levels of responsibility.

Permanent tenure does carry with it some of the dangers previously alluded to. There is a tendency for some employees to become slack, and for some others to develop into rather crotchety guardians of departmental routine. Consequently, security of tenure is neither an unmixed blessing nor an unmixed evil, and some sort of compromise between the extremes of security and insecurity seems advisable. Assessors and other department heads should be able to dismiss an employee for good cause, and the process of establishing good cause should not be so difficult or distasteful that they will tolerate unsatisfactory employees rather than exercise their powers of dismissal. It is our opinion that this ideal is best realized by laws requiring the department head to state the cause or causes of dismissal in writing, granting the employee the right to be heard by the central personnel agency if there is one, and authorizing this agency to recommend but not to order reinstatement. This dismissal procedure has proved satisfactory both to employees and to department heads in many governmental units.

**11. Subordinate personnel in assessment offices should receive the protection afforded by membership in a sound retirement and disability benefit system.**

When employees are protected from summary dismissal, it is highly desirable that they be members of a retirement and disability benefit system.<sup>20</sup> Otherwise elderly employees are likely to be kept on the payrolls long after their usefulness has passed while disabled employees are given long leaves of absence with pay. No administrator wants to be so coldly efficient as to dismiss faithful employees who have become incapacitated by old age, sickness, or accident; yet the pensioning of such employees by retaining them on the regular payroll is wasteful and inequitable. Furthermore, we have already advanced the theory that government should play the role of a model employer, and with old age and disability benefits so prevalent in private employment it seems only reasonable that they should obtain in the public service as well.

A retirement and disability benefit program should be formulated with the advice of a competent actuary. Employees and policy determining officials should keep in mind (1) that such plans are feasible only when they cover large numbers of employees, (2) that substantial premium rates are required, and (3) that careful provision must be made for the safe investment of funds. These factors preclude the successful operation of a pension plan on a departmental basis, except in the largest governmental units, or by small governments individually. In a few states, e.g., California, Illinois, and New York, assessment and other departmental employees are included in a state-administered retirement system if the local governing body so elects, and this seems to be the most satisfactory plan. An alternative procedure is to include the employees of small governmental units within the retirement systems of neighboring cities or counties of large size.

<sup>20</sup> Public employees are not as yet included within the federal social security program.

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## Chapter VII

### Administrative Review Agencies

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THE ORIGINAL assessment is never a final proceeding if the taxpayer has performed his statutory duties and wishes to protest that assessment. Due process of law gives every taxpayer a right to a hearing some time before the tax becomes irrevocably fixed.<sup>1</sup> This hearing may be before the original assessment agency, before a separate administrative review agency, or in the courts. It is apparently the judgment of most state legislatures that the original assessment agency lacks the impartiality of an ideal review agency and that judicial review is too slow and too costly if not also deficient in other respects. Consequently, all but a few states have established special administrative review agencies, separated from both the original assessment agency and the courts. This chapter is devoted to a description and appraisal of these agencies and to recommendations concerning their organization, staffing, and jurisdiction.

#### THE ADMINISTRATIVE REVIEW FUNCTION

The duties of an assessment review agency may include any or all of the following:

1. To raise individual assessments, after due notice and opportunity for hearing, when it finds that they are too low.
2. To lower individual assessments when it finds that they are too high.

<sup>1</sup> *Londoner v. Denver* (1908) 210 U. S. 373; *Turner v. Wade* (1921) 254 U. S. 64.

3. To add taxable properties to the roll, after due notice and opportunity for hearing, when they have been omitted.

4. To remove tax-exempt properties from the roll when the assessor has listed them for taxation.

5. In states classifying property for differential tax rates, to reclassify property when the assessor has listed it in the wrong category.

6. To correct clerical errors in names of taxpayers, property descriptions, assessed valuations, etc.

In any or all of these functions, the board of review may be permitted to act either on its own motion or only on appeal.<sup>2</sup> The right of appeal belongs as a matter of due process of law to the property owner and to persons with substantial legal or equitable interests in the property. The statutes of many states extend similar rights to persons holding minor interests in the property, to taxpayers in general, or to citizens in general. Usually some one or more public officials may appeal on behalf of the governmental units which levy taxes on the assessment in question.

### *Review vs. original assessment*

The line of demarcation between original assessment and review is in most instances clear and unmistakable. In general, the original assessment process may be said to continue as long as an assessment may be determined according to the assessor's judgment without personal notice to the property owner. However, this criterion is not always sufficient, since in some states the assessor cannot raise valuations above the amounts appearing in the returns of taxpayers nor assess unreturned property without giving personal notice. In such states, the end of the original assessment process and the beginning of the assessment review process is generally mani-

<sup>2</sup> As a general rule, an agency with the authority to act on its own motion may be assumed to be authorized to hear appeals. See, however, *Perry County v. Kentucky River Coal Corp.* (1938) 274 Ky. 235, 118 S. W. (2d) 550, in which the Kentucky Tax Commission was held unauthorized to hear appeals although it may change individual assessments on its own motion.

fested by the signing of the assessment roll and the opening of the roll to public inspection or the personal notification of *all* taxpayers as to the assessed valuation of their property.

### *Review vs. equalization*

The terms "review" and "equalization" are used interchangeably by many writers in the field of taxation. However, they have very different meanings in some states. In Michigan, for example, the review function and the equalization function are performed by different agencies. Each Michigan county is divided into township and city primary assessment districts, and each such district has its own board of review.<sup>3</sup> The board of review may make changes in individual assessments on its own motion or on appeal but may not order horizontal increases or decreases in all assessments.<sup>4</sup> When the local board of review has completed its work, the Tax Commission serves as a state board of review with substantially the same powers as the local board. In addition to these two review boards, there are two equalization boards. First, the county equalization board examines the township and city assessments and (in effect) makes such horizontal increases or decreases as are necessary to equalize their average assessment levels. Then the State Board of Equalization equalizes between counties by making horizontal increases or decreases which apply uniformly to all assessments within a given county. But these horizontal increases or decreases do not actually affect the assessment rolls; instead, they are reflected in higher or lower tax rates. For example, if a county equalization board finds that one township is assessed at 50 per cent of the full value of its taxable property and another at 100 per cent, the first township is ordered to extend *county* taxes at a rate twice that which is used in the second township. Similarly, if a state tax were again to be levied, it would be

<sup>3</sup> For simplicity, this description makes no mention of a few instances in which city wards serve as primary assessment districts.

<sup>4</sup> *Hayes v. City of Jackson* (1934) 267 Mich. 523, 255 N. W. 361.

extended at one rate in all townships and cities within a county found by the State Board of Equalization to have an aggregate assessment equal to 30 per cent of the full value of its taxable property and at a rate twice as high in another county with an aggregate assessed valuation equal to 60 per cent of full value.

This distinction between review and equalization is blurred in one way or another in many states. Sometimes the membership of a review board is identical with that of an equalization board, as in Washington, where the Tax Commission is a review board and its members are ex-officio members of the State Board of Equalization. A similar situation exists in a good many other states and is exemplified in Ohio, where the State Board of Tax Appeals exercises both review and equalization powers. Again the laws or established practices governing the equalization process may require that the findings of the equalization board be put into effect by altering assessed valuations rather than by varying the tax rates of higher levels of government,<sup>5</sup> and changes of this sort are easily confused with the changes in individual assessments which are made by review agencies. But however obscure, there are important legal, historical, and practical differences between review and equalization. The essential difference is that the assessment review process is concerned with individual assessments and culminates in orders applicable individually to specified properties; whereas, technically speaking, the equalization process is concerned with the assessed valuations of groups of properties and culminates in orders each of which is applicable uniformly to all properties within a specified group. Unfortunately, many local review boards are called boards of equalization.

#### *Administrative review vs. judicial review*

Assessment review may be conducted by either administrative or judicial agencies, and we are concerned in this

<sup>5</sup> See pp. 309-12.

chapter only with agencies of the former type. The typical administrative review agency conducts hearings in a more or less informal manner; it has no set rules governing the admission of evidence and the taking of testimony; its cases are never tried by jury; it need not state the reasons for its findings and decisions; and it is not necessary that representatives of the parties to a complaint be attorneys. Even more important characteristics of the typical administrative review agency, serving to distinguish it from the typical judicial review agency, are: (1) it deals exclusively with a special type of complaint; (2) it may combine the functions of judge and prosecutor; and (3) it has related ministerial duties in addition to its quasi-judicial duties.

These distinctions between administrative and judicial review agencies will be discussed at greater length in the next chapter. At this point it is sufficient to say that a few review boards have characteristics which place them on the border line. A good example is the Cook County Board of Appeals, which does not play the role of the prosecutor and has almost no ministerial duties. For our particular purpose, it is convenient to classify such an agency as an administrative board rather than as a court, although one might perhaps with equal propriety classify it as a court for other purposes.<sup>6</sup>

#### NUMBER OF ADMINISTRATIVE REVIEW DISTRICTS AND AGENCIES

A typical local assessment district, whether primary or overlapping, serves as an administrative review district and has its own administrative review agency. Were this situation universal and were these the only administrative agencies reviewing local assessments, the number of administrative review districts and agencies would equal the number of local assessment districts and original assessing agencies. However, 9 of the 21 states divided wholly or partially into township assessment districts (or their equivalent) are divided

<sup>6</sup> Compare J. M. Landis, *The Administrative Process*, Yale University Press, New Haven, 1938, p. 20; F. F. Blachly, *Working Papers on Administrative Adjudication*, Government Printing Office, Washington, 1938, p. 5.



along county lines for assessment review purposes.<sup>7</sup> Furthermore, 6 states with township assessment districts have assessment review agencies on both township and county levels.<sup>8</sup> And 26 states,<sup>9</sup> including over half of the states with county assessment districts and exactly half of those with township districts, have state as well as local review agencies.

Ignoring for the moment all overlapping assessment districts, there are 26 state review districts, 2733 county review districts, 10,978 township review districts,<sup>10</sup> and 3190 municipal review districts—a total of 16,901 districts—and approximately equal numbers of administrative review agencies.<sup>11</sup> In addition, each of the three or four thousand active overlapping assessment districts has its own local administrative review agency. However, this enumeration includes districts in which the administrative review agency is also the original assessment agency. The elimination of the latter districts would reduce the counties to 2700, the townships to 8770, and the primary municipalities to 3074, making a total of 14,544. The number of overlapping assessment review districts would be virtually undiminished by such an elimination.

### THE HIERARCHY OF ASSESSMENT REVIEW

The number of levels of review agencies in each state and the relationship of one level to another are shown diagrammatically in Figure 11 (pages 411-20). The most common pattern involves a single layer of administrative review agencies on either the township or the county level, with an appeal from

<sup>7</sup> These states are Illinois, Indiana, Kansas, Missouri, Nebraska, New Jersey, Pennsylvania, South Carolina, and Tennessee.

<sup>8</sup> These states are Maine, Massachusetts, Minnesota, North Dakota, South Dakota, and Vermont.

<sup>9</sup> Alabama, Arizona, Colorado, Indiana, Kansas, Kentucky, Louisiana, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Montana, Nevada, New Jersey, New Mexico, North Carolina, Ohio, Oregon, South Carolina, South Dakota, Tennessee, Utah, Washington, Wisconsin, and Wyoming.

<sup>10</sup> Including New England towns, the rural "towns" of New York, Minnesota, and Wisconsin, and Maine plantations.

<sup>11</sup> There are a few review districts which have more than one review agency each.

this agency to a lower state court. Another common pattern involves county and state administrative review agencies, with no right of appeal to the state agency except from a decision of the county agency<sup>12</sup> and no further appeal to the courts. A third familiar pattern is a cross between the first and second. Here again there are both local and state administrative agencies, but there are alternative lines of appeal; an aggrieved taxpayer can either go directly from the local review board to the courts, or he may go from the local review board to the state agency and thence to the courts.

These three patterns account, however, for only 11, 9, and 7 states, respectively. The remaining 21 states display such a variety of relationships between original assessment agencies, local and state administrative review agencies, and the courts that they can best be described by reference to Figure 11. In many instances these relationships have not been clearly defined either by the legislature or by the courts. In other cases the picture is complicated by the prescription of different procedures for real property and personal property or for property of residents and property of nonresidents.

#### COMPOSITION OF ADMINISTRATIVE REVIEW AGENCIES

The typical administrative review agency is a board of three members. The Board of Tax Appeals for the District of Columbia, despite its name, has one member, and the Cook County Board of Appeals has two members; but these are probably the only local agencies of less than the typical size. On the state level, single-headed review agencies are found in Alabama, Minnesota, and Wisconsin. Larger than typical boards are, on the other hand, quite common. There are two or three thousand four- and five-member boards in the country, three or four hundred six- and seven-member boards, and a scattering of agencies with memberships rang-

<sup>12</sup> This does not necessarily mean that the state agency is powerless to receive an appeal directly from the original assessor. Many state agencies may apparently entertain or deny such appeals in their discretion although they must entertain appeals which come directly from lower review agencies.

ing up to the maximum of 57 in Florence County, South Carolina. It is estimated that there are, in all, between fifty-five and sixty thousand review board members in the United States, excluding 6300 members of boards which serve both as original assessment agencies and as review agencies.

The typical member of a state board of assessment review is a state tax commissioner; of a county board, a county commissioner or county supervisor; of a township board, a township supervisor or trustee; and of a municipal board, a municipal councilman or commissioner. It is noteworthy that all of these typical members except the tax commissioner are elected, policy determining officers who serve on the board of review in a strictly ex-officio capacity. In fact, only about 10,000 review board members do not serve ex officio.<sup>13</sup> (See Table 26, page 397.)

Review board members who are not serving in an ex-officio capacity are more commonly found in the southern states than in other regions. Such members are typical if not universal on the local level in Alabama, Arkansas, Georgia, Kentucky, Oklahoma, Tennessee, and Virginia. The northern states which recruit all or a majority of their local review board members from persons not otherwise in the public employ are Connecticut, Illinois (in the township counties), Indiana, Michigan, and New Jersey. Outside of these 12 states, this type of membership is found only occasionally, the most important instances being in Baltimore, Des Moines, St. Louis, Milwaukee, Washington, D. C., and a number of Texas cities.

The membership of many local boards of review includes one or more assessors. Approximately 11 per cent of all county boards of review, 32 per cent of all township boards, and perhaps 20 per cent of all municipal boards have such members.

<sup>13</sup> Local assessors serving as review board members are here considered to be ex-officio members; however, state and local assessment supervisors are included among the 10,000 on the theory that their review function is as important as their supervisory function and that it would be improper to consider either of them an ex-officio activity.

If we rule out the cases in which boards of assessors are also boards of review, these percentages are reduced to 10 for county boards, 15 for townships, and 19 for municipalities. Assessors who are not review board members are frequently required to attend board sessions<sup>14</sup> in order to defend their assessments, to provide the review board with information, to serve as secretary or clerk of the board, or even (in Idaho) to question and examine witnesses.

The memberships of state boards of assessment review follow four typical patterns. First, there are the ex-officio boards composed of the auditor, treasurer, attorney general, and/or other officers of the state government. This type of board is still rather prevalent among state equalization agencies but has review powers in only two states. The second type is the three- or four-member state tax commission or state board of equalization, which is found in 15 states and is the typical pattern for state boards of review. The third type is the three- to seven-member state board of tax appeals, an agency which has practically no official duties aside from the hearing and deciding of appeals on state and local tax assessments.<sup>15</sup> Finally, there are the three previously mentioned states with single-headed agencies, whose tax or revenue commissioners perform the review function. A few states have two state review agencies and thus are represented in two of these categories, while the agencies of Nevada and South Dakota fit well into none of them. (See Table 27, page 404.)

### SELECTION OF BOARD MEMBERS

An overwhelming proportion of local review board members are elected by popular vote. This is true of all the policy

<sup>14</sup> This is the law in Alabama, Arizona, Arkansas, California, Idaho, Iowa, Minnesota, Mississippi, Montana, Nevada, North Carolina, Pennsylvania, Utah, Washington, West Virginia, Wisconsin, and Wyoming.

<sup>15</sup> The states with this type of agency for review of local assessments and the date of establishment (or of assumption of this duty) are: South Carolina (1916), Massachusetts (1930), New Jersey (1931), Ohio (1939), Minnesota (1939), and Louisiana (1940). In addition, Georgia (1937) and Wisconsin (1939) have boards for the review of state assessments.

forming officials who serve *ex officio* on the review board; and it is also true of most assessors, auditors, clerks, and treasurers who serve in this capacity. Even members who are selected from outside the ranks of officialdom are elected in most Connecticut towns, in Michigan townships, and in Cook and St. Clair counties, Illinois. As a general rule, however, review board members who hold no other public office are appointed. (See Table 26, page 397.)

Among counties, most such appointments are made by local "judges" or "courts." The explanation of this rather unusual designation of an appointing agency is twofold: (1) It manifests a recognition of the judicial character of the assessment review function; (2) the county "judge" is the closest approach to a chief executive in many of our southern counties, while an agency designated as a "court" serves as the legislative body. The first explanation seems appropriate to Illinois, Indiana, and Oklahoma and the second to Arkansas, Kentucky, and Tennessee. Appointed city board members are usually selected either by the chief executive or by the local governing body.

Selection of local review board members by a state officer is by no means uncommon. The Governor or the delegation of representatives and senators from the county usually selects county board members in South Carolina; and the New Jersey Governor makes all such appointments in his state, subject to senate approval. The Vermont Commissioner of Taxes makes county board appointments with the approval of the Governor; and the Alabama Commissioner of Revenue has similar powers except that he must appoint one member from each of three lists of nominees submitted respectively by the county governing body, the county board of education, and the governing bodies of the municipalities within the county. The Oklahoma Tax Commission is authorized to appoint one out of three board members in each county.

With a few exceptions, members of state review agencies are selected by the governor and approved by the senate.

Appointment from lists certified by civil service commissions seems to be even less common for members of review boards than for assessors. The members of the Colorado Tax Commission and of the Jefferson County, Alabama, Board of Equalization are the only instances of such appointment that we have discovered. The situation is much the same for subordinate employees of local boards of review, since they frequently serve on temporary appointments which are exempt from the merit system. Employees of state review agencies, on the other hand, are usually regular employees of the state and are under formal merit systems in Alabama, Colorado, Kansas, Kentucky, Louisiana, Maryland, Massachusetts, Michigan, Minnesota, New Jersey, Ohio, Tennessee, and Wisconsin.

#### TERMS OF OFFICE

Both two- and four-year terms are common for members of local administrative review agencies, while terms of one, three, five, and six years are found infrequently. An occasional member has indefinite tenure of office. (See Table 26, page 397.)

The terms of persons serving *ex officio* on local boards of review are presumably, and probably properly, determined with little consideration for their duties as review board members. For this reason, the terms of other members are in some respects of greater interest. For a group of approximately 9000 members holding no other public office, 44 per cent are found to have been elected or appointed for one-year terms, 44 per cent for two-year terms, 4 per cent for three-year terms, 2 per cent for four-year terms, a small fraction of 1 per cent for five-year terms, and 5 per cent for six-year terms.

On the state level a six-year term is both the maximum definite term and the typical term. Indefinite terms are found in Alabama and Colorado; five-year terms in New Jersey; four-year terms in Indiana, Kansas, Kentucky,<sup>16</sup> Nevada,

<sup>16</sup> Except that the chairman serves at the pleasure of the Governor.

North Carolina, Oregon, South Carolina,<sup>17</sup> and Utah; and mixed terms are found in South Dakota and Tennessee. (See Table 27, page 404.)

### QUALIFICATIONS

There are few statutory qualifications for members of local boards of review aside from the age, citizenship, and residence requirements so frequently applicable to all public offices.<sup>18</sup> Real property ownership is required of appointed board members in Arkansas, Georgia, Indiana, Oklahoma, Tennessee, Virginia, and some Kentucky cities and also of some elected members of local boards in Indiana, Michigan, and New York, while Alabama members must own "taxable property" in the state. Long prior residence periods are required in a number of instances, as in Georgia (2 years), second-class Kentucky cities (5 years), and St. Louis (10 years). Bipartisan local boards are mandatory in New Jersey, Indiana, and part of Illinois.

Educational and professional qualifications of local administrative review board members seldom go beyond the literacy tests applied to voters in a number of states.<sup>19</sup> The principal exceptions are found in the District of Columbia, where the sole member of the Board of Tax Appeals must have been a practicing attorney for at least ten years immediately preceding his appointment; Des Moines, where one of the five members of the Board of Review must be a licensed real estate broker and another a registered architect; and Jefferson County, Alabama, where positions on the Board of Equalization are within the classified civil service. A substantial number of appointed and a few elected members of local boards are not allowed to hold other public office.

State review board members, on the other hand, are sup-

<sup>17</sup> The South Carolina Tax Commission members serve for six-year terms, but members of the Tax Board of Review have the shorter terms indicated in the text.

<sup>18</sup> See p. 155.

<sup>19</sup> *Ibid.*

posed to meet certain statutory qualifications in nearly all states, although the machinery for testing the qualifications of candidates and appointees is almost totally lacking. Bipartisan boards are required in eight states,<sup>20</sup> and political activity is prohibited in three.<sup>21</sup> No fewer than two members of the New Jersey Board of Tax Appeals must be counselors at law, and the five part-time members of the Nevada Tax Commission must be versed respectively in the fields of land valuation, livestock, mining, business, and banking. State tax commissioners rather generally are required "to possess knowledge of, and training in, the subject of taxation and taxing laws and to be skilled in matters pertaining thereto"; but actual testing for these qualifications is restricted to Colorado, where the commissioners are appointed from the top ranking in a competitive, assembled examination conducted by the Civil Service Commission. Most state review board members are prohibited from holding other public office and from engaging in private business activities which conflict or interfere with their public duties.

### COMPENSATION

In many instances, members of local boards of review receive no compensation as such, since they serve in an ex-officio capacity and merely devote to assessment review time for which they are paid as salaried public officials. Even more frequently, the per diem which they are paid for service on the municipal council or the county board of commissioners is payable also while they are examining the assessment rolls and hearing appeals. Board members holding no other public office are paid per diems or annual salaries set by the state legislature or by the local governing body.

<sup>20</sup> Indiana, Maryland, Massachusetts, Missouri, New Jersey, New Mexico, Ohio, and Utah.

<sup>21</sup> Colorado, Minnesota (Board of Tax Appeals), Montana, and South Carolina (chairman of the Tax Commission). In addition, members of the Louisiana Board of Revenue may not be candidates for any other public office while serving on the Board.



The tax laws have been examined in all states which have local review board members who hold no other public office, and the compensation provided for such members and for a few ex-officio members is listed in Table 26 (pages 397-403). From these data, it appears that most persons serving on local assessment review boards receive per diems ranging from \$2 to \$10. Per diems higher than \$6 are exceptional where the state legislature fixes the compensation and are likely in any event to be found only in the more prosperous urban areas. Since the review period runs all the way from one day to several months, these per diems cannot readily be translated into annual compensations. However, laws governing the duration of the review period hold the maximum annual compensation to as low as \$6 in certain Kentucky cities and \$10 for three out of four years in South Carolina. Even a city as large as Louisville is prohibited from paying more than \$10 a day or \$400 a year, while Marion County, Indiana, with a population of 461,000, can pay \$6 a day for a maximum of 45 days.

Many local review board members are paid annual salaries, and some of these are expected to devote full time to assessment work. Members of the Jefferson County (Alabama) Board of Equalization are paid \$3600. New Jersey county tax board members receive from \$1200 to \$4500, although none is prohibited by law from engaging in other work. The full-time judges of the Baltimore Appeal Tax Court receive \$3100; the member sole of the District of Columbia Board of Tax Appeals is paid \$8000; and members of the Cook County (Illinois) Board of Appeals, \$9000.

On the state level, discontinuous service and extremely low salaries for members of assessment review boards are the exception rather than the rule. (See Table 27, pages 404-6.) Per diems are found in only two states. Elsewhere, salaries are on an annual basis and, with but two exceptions, range from \$3000 to \$7500. The typical salary is \$5000.

## RECOMMENDATIONS

There is surprisingly little objective evidence upon which to base a decision as to the relative effectiveness of various review organizations. In the minds of many students and members of the assessing fraternity, there is even some question whether *independent* administrative review agencies do more harm than good.<sup>22</sup> There is, however, no question concerning the desirability of providing for administrative review as such. To deny the aggrieved taxpayer any appeal to the original assessing agency or to an independent reviewing agency would leave him no recourse but the courts. This, for reasons which are stated in the next chapter, is a recourse which is unsatisfactory both to aggrieved taxpayers and to the public at large. We have therefore proceeded on the assumption that there is to be at least one level of administrative review.

**1. Review districts need not conform in area to assessment districts.**

If one may judge by the practice of most states and by the more elementary treatises on property taxation, it is generally assumed that each assessment district must be equipped not only with an original assessment agency but also with an independent assessment review agency. Actually there are nine states<sup>23</sup> in which local review districts are laid out along county lines despite the fact that they have the township assessment district pattern in some or all counties. There are also a number of states in which a state reviewing

<sup>22</sup> For a particularly scathing denunciation of administrative review agencies, see William J. Schultz, *Your Taxes*, Doubleday, Doran & Co., Garden City, N. Y., 1937, pp. 201-5. Herbert D. Simpson's *Tax Racket and Tax Reform in Chicago* (pp. 83-94), one of the few studies in which the effectiveness of a review agency was tested statistically, disclosed that the old Cook County Board of Review was of very doubtful value if not actually worse than nothing. Renne and Lord, in their *Assessment of Montana Farm Lands* (Montana Agricultural Experiment Station, 1937, p. 16), expressed the opinion that "the equalization machinery may therefore be adding to the inequalities in assessments rather than correcting them," but the inductive proof of this statement is not particularly convincing. See also James W. Martin and G. W. Patton, "Operation of the Real Estate Tax in Lexington, Kentucky," *The Tax Magazine* (1932) v. 10, pp. 251-52.

<sup>23</sup> See footnote 7, p. 244.

agency will hear appeals directly from the local assessing officers, and this is, in fact, the customary procedure in Massachusetts and Maryland.<sup>24</sup> In none of these states has there been articulate demand for smaller review districts.

The only apparent advantage in having coterminous local assessment and local review districts is that each review agency need then learn the procedures and policies of only one original assessment agency. This is an inadequate reason for the perpetuation of small review districts. Review districts should be laid out with reference to their adequacy as review districts and not with reference to their adequacy as assessment districts or in conformity with an ill-conceived assessment district pattern.

This recommendation is not intended to apply to overlapping assessment districts. They are so loosely tied into the general tax structure of the state that it seems appropriate for them to establish and maintain their own reviewing agencies.

***2. Each district should be large enough to warrant the continuous employment of a full-time administrative assistant to the review agency.***

The great obstacle to effective assessment review is the difficulty of securing the services of persons trained and experienced in the valuation of property while adhering to traditional organizational patterns. As far as we are aware, this obstacle has been overcome in less than a dozen local review districts. On the state level it has been overcome in a few instances by the creation of boards of appeal empowered to decide controversies over all types of state and local taxes and in a good many others by assigning the review function to a state tax commission or board of equalization performing numerous related tasks. Members of these agencies have had the opportunity to specialize in appraisal and tax work, and have been able to surround themselves with competent staffs, many of which are protected by merit systems.

<sup>24</sup> This is true in Maryland only for appeals originating outside the city of Baltimore, Frederick County, and Harford County. See footnote 8, p. 38.

Some major change must be wrought in the organization for reviewing assessments locally if an acceptable degree of efficiency is to be widely attained. A step in that direction would be the employment of a full-time administrative assistant. It would be the duty of this assistant to supervise the receiving and recording of complaints, the scheduling of hearings, the giving of notices to taxpayers and public officials, the assembling of data, and the recording of proceedings and decisions. It would also be possible to assign to him the role of the prosecutor in actions taken on the board's own motion.

In order to occupy the time of such an administrative assistant, it would, of course, be necessary either to enlarge most local review districts or to assign him related duties whose performance would enhance or at least not detract from his value to the board of review. Frequently it would be impossible or inexpedient to pursue the first suggestion. It might then be advisable to make him an agent of the state tax department in the conduct of its supervisory duties. Or, where assessment districts are below the county level, he might be required to assist in making the county equalization. Other possibilities will suggest themselves in particular states; for instance, he might render assistance to millage allocation boards in states having over-all property tax rate limits. What is important is that this person be employed full time, that his different tasks be closely related, and that he be able to make a career of his work.<sup>25</sup>

***3. The functions of original assessment and review should be performed by independent agencies, with adequate safeguards against the development of the review agency into a coordinate assessing agency.***

In its original conception, the board of review was part of our time-honored system of checks and balances. It was in the nature of a policeman whom the public placed on duty to guard against a dishonest or incompetent assessor. To a

<sup>25</sup> The New Jersey Act (*Revised Statutes*, 1937, sec. 54: 3-7 ff.) providing for secretaries to the county boards of taxation is suggested as a model law.

considerable extent it still serves in this capacity, especially in those states granting to review boards practically unlimited powers to alter the original assessment rolls.

There is some virtue in an organization built upon this concept, but it is attended by serious evils. For one thing, it is an obstacle to the improvement of organization, personnel, and procedures in the assessor's office. The public is lulled into a false sense of security by the appointment of the policeman, forgetting that he may be less honest and less competent than the person he is supposed to watch. Furthermore, the establishment of agencies with parallel powers and duties makes it difficult if not impossible for the average citizen to fasten the responsibility for poor assessing on any one person or agency. In fact, the principal purpose which the board of review serves in some states is that of shielding the assessor from a supposedly vindictive electorate.

There is little doubt in our minds that there should be separate agencies for original local assessment and review. The review board should not be merely an arm of the assessor's office or the finance department. To make it such not only offends the public sense of justice but practically assures that the courts will play a major role in the assessment process either by statutory authority or by usurpation under their conceptions of "due process of law." This we believe to be undesirable. Furthermore, the occasional combination of assessment and review functions in a single agency is one reason for the persistence of boards of assessors despite widespread conviction that the assessment department should be headed by a single administrator.

The more complete the separation of original assessment and review functions, the more the danger of serious duplication of effort and diffusion of responsibility. But this danger can be largely avoided without loss of effectiveness of the review agency by restricting the functions of the board of review in the following respects:

- a. Let no reductions in assessed valuations be made by the

board of review except on written complaint filed by the taxpayer or his authorized agent before the board convenes for public hearings.<sup>26</sup>

b. Let no one appeal from an assessment of legally taxable personal property unless he has constructively complied with a requirement that such property be declared to the assessor or shows good reason for failure to comply.

c. Let no changes in real estate valuations be made by a board of review in a non-reassessment year, except changes of the sort which the assessor is permitted to make in such a year and then only in accordance with the proposed restriction set forth in (a) above.

**4. *The assessor, if not a member of the local review agency, should be required to attend its sessions in person or by deputy.***

By recommending that the original assessment and review functions be discharged by independent agencies, we do not mean to preclude membership on the board of review by the assessor, as long as he is a minority member. Several leading authorities on assessment organization have expressed their preference for such membership.<sup>27</sup> On this controversial ques-

<sup>26</sup> It has been suggested by the chairman of the committee, subsequent to the filing of the committee's final report, that this restriction might well be supplemented by a requirement that the appellant disclose the cost of the property involved in the appeal. The purpose of this requirement would be to discourage frivolous appeals and the solicitation of assessment cases by professional "tax adjusters." It would perhaps be particularly appropriate in connection with the state administrative review agency recommended below, since some competent observers believe that the establishment of such an agency would foster a large number of unwarranted appeals. This proposal has certain obvious advantages over the principal alternative method of restricting appeals to meritorious cases, which is to impose a filing fee.

<sup>27</sup> See J. L. Jacobs, "Administration of the Property Tax," *The Annals* (Jan. 1936) v. 183, p. 201; Lawson Purdy, *The Assessment of Real Estate*, National Municipal League, New York, 1929, p. 6; H. D. Simpson, *Tax Racket and Tax Reform in Chicago*, Northwestern University, Chicago, 1930, p. 213. The chairman of this committee has also recommended assessor membership (James W. Martin and G. W. Patton, "Operation of the Real Estate Tax in Lexington, Kentucky," *The Tax Magazine* (1932) v. 10, p. 314), but now believes the issue comparatively unimportant. For opposition to assessor membership, see A. E. Buck and others, *Municipal Finance*, The Macmillan Co., New York, 1926, p. 380; New York State Tax Commission, *Annual Report*, 1938, p. 3.

tion we take no stand beyond pointing out that assessor membership presupposes coterminous assessment and review districts and is undesirable when the review district embraces several assessment districts. It is elementary, however, that the assessor should be required to attend, or be capably represented at, meetings of the board when his assessments are under review.

***5. In most states there should be two levels of administrative review through which an appeal may be carried by an aggrieved taxpayer.***

For the majority of states, it seems likely that more than one but not more than two levels of administrative review will prove most satisfactory in the long run. Such an organization permits the weeding out of frivolous appeals and the correction of simple errors of judgment by local boards which are inexpensive and conveniently located, while guaranteeing full protection to the taxpayer by permitting further appeal to an exceptionally well qualified body with jurisdiction throughout the state. Furthermore, by providing for somewhat more formal hearings before a competent state agency, due process of law is assured without conferring upon the courts jurisdiction over valuation questions involving mere differences in judgment. Thus the taxpayer is adequately protected from overassessment and the public interest is preserved by keeping the assessment function within the control of specially qualified persons.

There are, of course, a few states with areas and populations so small that a single state board can conveniently handle all appeals which are reasonably to be anticipated. Although it is possible that some of these states may wish to establish a state review agency and discontinue local review altogether, it seems somewhat more likely that several of them will prefer to continue their present practice of local review by the original *assessment* agency and to superimpose an independent state agency as a second level of administrative re-

view. The latter course would probably be desirable even though local boards of assessors should be replaced by single assessors as recommended in a previous chapter.

**6. *Members of review agencies should be appointed to office on the basis of their qualifications for the position.***

The adoption of the preceding recommendations would result in review districts of considerable area and fairly large populations. Under such circumstances, it is clear that members of boards of review should be appointed rather than elected to office. Most of the voters will have only the most meager information concerning candidates for the office, and a logical choice cannot be expected of them however well intentioned they may be.

But regardless of the size of the review district, we are of the opinion that appointment is generally to be preferred to election. The arguments favoring the selection of assessors by appointment have already been stated,<sup>28</sup> and most of them apply with equal force to the selection of officers engaged in assessment review. However, when both local assessors and local review board members are appointed, it would seem quite proper and probably desirable to make them responsible to two different appointing agencies.

Particularly unfortunate is the widespread practice of constituting review boards of persons who are elected to some other office and who serve on the review board in an ex-officio capacity. There is no reason to expect that persons who have been selected to represent the people in a local legislative body will be technically qualified to review property tax assessments, and there is even less reason to believe that they will approach their task with a judicial attitude. The same is true in lesser degree of officers elected to administrative positions. It is difficult for such persons to act without regard for the effect of their decisions upon their reelection to office. And, unfortunately, a group which keeps its ear close

<sup>28</sup> See pp. 180-83.



to the ground is unlikely to do the best job of assessment review. Furthermore, ex-officio review board members are frequently concerned primarily with budgets, tax rates, or other matters which are hardly relevant to the review function.

***7. The review agency should ordinarily be a board of either three or five members.***

The committee believes that a review agency of either three or five members is preferable to one having any larger number of members and recognizes the common assumption that a board is superior to a single administrator for the handling of judicial and quasi-judicial matters.<sup>29</sup> Boards of large membership have proved themselves slow and unwieldy if all members act concurrently and are likely to split up into smaller groups or even individuals for the hearing of cases, with the result that different standards are often applied to different taxpayers either unintentionally or purposefully.<sup>30</sup> These considerations suggest that a three-member board, or at most a five-member board, will work best in most circumstances, although the possibility of satisfactory review by a single person rather than a board should not be ignored.

***8. Terms of members of review agencies should be at least three years and preferably five or six, with provision for removal for cause.***

It is hardly necessary to argue that persons serving for a few days or weeks a year can learn very little of the techniques of assessing property taxes and hearing appeals in the course of a one-year term. This would be true only in lesser degree if the review period were extended to the point of making it a continuous, year-round process. The minimum term, in our opinion, should be three years, and we would much prefer five or six years.

<sup>29</sup> See p. 148. It should be said, however, that the one-member Board of Tax Appeals for the District of Columbia has an excellent record and is strongly supported by local public opinion.

<sup>30</sup> See Herbert D. Simpson, *The Tax Situation in Illinois*, Northwestern University, Chicago, 1929, pp. 20-22.

A lengthening of the term should be accompanied by two other things. First, the position should be made more attractive in other respects so that service on the board is not onerous and frequent resignations are not to be anticipated. Second, provision should be made for removal of members, but only for good cause and, if requested by the incumbent, after public hearing. Removal should be by the agency appointing the member and by the courts or any state department which may be designated as a supervisor of this phase of the assessment process.

***9. If an agency is created for the primary purpose of reviewing assessments, the members should serve overlapping terms.***

Overlapping three- or six-year terms for boards of review with three members and overlapping five-year terms for boards of five members are recommended as a means of assuring experience on the part of a majority of the board and continuity in board policies. It is recognized, however, that there are some review agencies, especially on the state level, which serve also as assessors and collectors and in other nonjudicial capacities. If the review function is primary and other functions are incidental, overlapping terms are clearly desirable. On the other hand, if the review function is incidental, the argument for overlapping terms loses much of its force. Under the latter circumstances, the possibility that board members will be incompatible tends to offset the advantages of overlapping terms, and experience and continuity in policies are often best assured by protecting the tenure of subordinate employees.

***10. Compensation of members should be adequate to attract qualified persons to the office and, in the case of large review districts, should be in the form of a fixed amount per annum.***

If capable persons are to be attracted to membership on boards of review, it seems essential that the material rewards

of the office be increased. Surely not less than \$10 a day, and more likely not less than \$25, will induce a successful business or professional man to devote at least two or three consecutive weeks to the review of assessments. If possible, payment of a certain amount per annum is preferred to a per diem. Especially is this to be preferred as the compensation increases, for a high per diem is a real incentive to drag the work out. Because the number of appeals is more predictable in a large district than in a small one (for the same reason that the number of deaths per year in a large group of people is more predictable than the number in a small group), a large review district is better adapted to the use of an annual salary than a small one. In fact the recommendation for such a salary is contingent upon the size of the district.

**11. *The review procedure should be uniform for all assessments of a given agency.***

The occasional practice of differentiating the review process according to the type of property involved or the residence of the taxpayer seems to have no substantial justification. Its principal apparent effect is to complicate the review process and confuse the taxpayer. A secondary effect may be to establish double standards by reason of the concurrent operation of two review agencies. Considerations of clarity and equity both demand that all of the assessments of a given agency be subject to the same review and appeal procedures.

#### STATE BOARDS OF TAX APPEALS

Something should be said, in conclusion, of the recently developed state boards of tax appeals. Boards designated by this or similar titles are, in essence, special courts. Their members have no administrative duties or powers, and it is chiefly this lack of an administrative function which distinguishes them from state tax commissions having similar appellate jurisdiction.

A state board of tax appeals may readily be brought into

conformity with the committee's recommendations. However, it is not, in our opinion, adapted to the needs of all states, partly because of the lack of a volume of appeals sufficient to occupy its full time the year around, and partly because of the existence of competent administrative bodies which are already performing review functions or whose activities could readily be expanded to include such functions.

The volume of appeals which can be anticipated by a state review agency depends upon a considerable variety of factors. These include (1) the number of different taxes over which the agency has jurisdiction, (2) the number of taxpayers subject to such taxes, (3) the extent to which tax bases invite controversy, (4) the rates of the various taxes,<sup>31</sup> (5) the accuracy with which original assessments are made, (6) the level of original assessments,<sup>32</sup> (7) the reputation of the review agency, and (8) the extent to which the state review agency is supplemented by local review agencies.

Various combinations of these factors reduce the volume of appeals on the state level to low figures in many states. To choose an extreme example, in Wyoming, there was but one appeal from local assessments in the four years 1935 to 1938,<sup>33</sup> and the nature of the tax system suggests that there were not a great many more appeals from state assessments. This is clearly an inadequate volume of work to justify the creation of a state board of tax appeals. In a smaller state the volume could legitimately be increased by abolishing independent *local* review agencies. Perhaps this might even be done in Wyoming by directing the state agency to "ride circuit," to act through individual members rather than as a board, or to operate on a highly decentralized basis; but any one of these schemes would sacrifice some of the merits which are claimed for state boards of tax appeals and at least the first would tend to dis-

<sup>31</sup> The higher the rate the greater the incentive to contest the assessment.

<sup>32</sup> This factor relates particularly to property taxes. As a general rule, a high level of assessments, relative to the statutory level, results in a large number of appeals.

<sup>33</sup> *Report of the State Board of Equalization, 1935-36*, p. 3; *1937-38*, p. 2.

rupt local financial calendars by delaying the review process in all but a few counties. As a rule, it seems clearly advisable to establish a state board of tax appeals only where there is a sufficient volume of work to occupy the full time of the board, after sifting appeals from local assessment agencies through one layer of local review agencies.

Even where the volume of appeals is large, there are circumstances which may argue for the allocation of review functions to the state tax department rather than to an independent board of tax appeals. Undoubtedly the intimate knowledge of local assessment procedures which an active and intelligent tax commissioner acquires in the course of his work is capable of contributing to the equitable settlement of disputes. On the other hand, the judicial process, whereby a decision is based entirely upon evidence adduced during the proceedings, is not always the best assurance of property tax justice. If, then, members of the state tax commission are not only possessed of technical knowledge and skills but have surrounded their office with a tradition which reasonably assures continued competence, the commission may be expected to perform a better job than a state board of tax appeals in the review of local property tax assessments.

Whatever the decision may be as to the relative merits of a state board of tax appeals and a state tax commission as the final administrative appellate body, it must not be forgotten that the greatest need for reorganization lies at the local, not the state, level. It is here that the great bulk of review work is done and that organizational patterns and personnel practices are least acceptable.

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## Chapter VIII

### Judicial Review of Local Assessments

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**T**HUS FAR WE have been concerned with agencies created chiefly or exclusively for the purpose of assessment administration. But the courts, to which attention is directed in this chapter, have been established for many purposes other than assessment review. No recommendations for reconstituting or reorganizing these judicial agencies are offered. Instead, it is the purpose of the chapter to define the role which the courts should play in the review of local property tax assessments, assuming the continuance of their present organization and personnel.

#### REVIEW OF ASSESSMENTS BY STATE COURTS

The 48 states may be divided into two major categories with respect to the participation of their courts in the assessment review process: There is a group of some 22 states in which the courts review assessments for legality alone,<sup>1</sup> and there is another slightly larger group whose courts review assessments both for legality and for accuracy. (See Figure 10.) The principal difference in the scope of judicial review in the two groups is found in the fact that the *legality* of a property tax assessment seldom depends upon the amount for which the property is appraised, whereas the *accuracy* of an assessment which is contested in the courts seldom depends

<sup>1</sup> Montana appears by sec. 2270 of its *Revised Codes, 1935* to belong in this group but is excluded by reason of the decision in *Belknap Realty Co. v. Simineo* (1923) 67 Mont. 359, 215 Pac. 659. However, the Montana Supreme Court seems never to have given an adequate interpretation of this section.

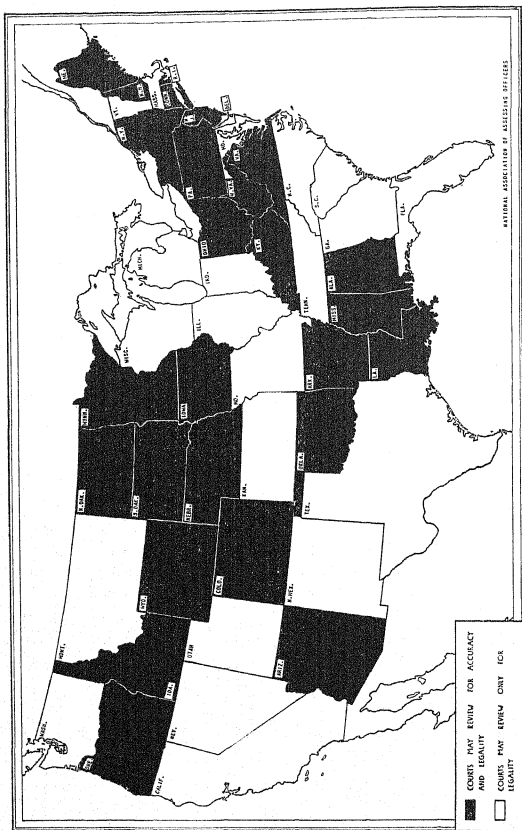


FIGURE 10. JUDICIAL REVIEW OF PROPERTY TAX ASSESSMENTS

on anything other than the appraisal. However, under certain conditions which will be described presently, an incorrect appraisal will render an assessment illegal, and at this point the distinction becomes somewhat vague.

### *Review of illegal (void) assessments*

There are various procedures by which the legality of a tax is tested. One is a petition for a writ of injunction, by which the taxpayer seeks to have the tax collector restrained by a court of equity from collecting part or all of the tax bill. Under the accepted rules of equity, an injunction can be issued, however, only after administrative remedies have been exhausted and then only when there is no adequate remedy at law. Furthermore, the issuance of tax injunctions has been forbidden in a large and increasing number of states.<sup>2</sup> The remedy which has usually been substituted, and which has existed concurrently where the injunction has not been outlawed, is a suit at law for the recovery of taxes paid.<sup>3</sup> There is a third procedure in which the taxpayer waits until the government brings legal action for the collection of delinquent taxes and then pleads the illegality of the tax as a defense against the issuance of a judgment in favor of the taxing district.<sup>4</sup> And the legality of assessments is occasionally tested in certiorari and other less common procedures.<sup>5</sup>

<sup>2</sup> See M. S. Culp, "The Powers of a Court of Equity in State Tax Litigation," *Michigan Law Review* (1940) v. 38, pp. 618-23.

<sup>3</sup> Under the common law, this remedy was available only if the taxes were paid under actual duress. The duress to which the taxpayer was subject before the remedy was available was often such as to cause "irreparable injury." Since courts of equity will usually act to prevent irreparable injury, injunctions were freely issued where the common-law rule prevailed. Consequently, states which have barred tax injunctions have usually liberalized the law governing suits for tax recovery by specifically authorizing recovery of taxes paid "under protest," or even by authorizing recovery of taxes paid voluntarily and without protest.

<sup>4</sup> There seem to be relatively few states in which the forceful collection of taxes necessarily involves a court action. (See Culp, *op. cit.*, p. 614.) In these few states, as in states with liberal laws for recovery of taxes in an action at law, it is seldom possible to obtain a writ of injunction against collection of the tax since there is no ground for equity jurisdiction.

<sup>5</sup> See W. Sumner Holbrook, Jr., "Judicial Review of Determinations by County Boards of Equalization," *Southern California Law Review* (1941) v. 14, pp. 281-82, for examples of these uncommon procedures.



An assessment may be held illegal on any of several grounds, of which the following are illustrative:

1. The property is of a type which is legally exempt from taxation.

2. The property does not have tax situs within the tax district.

3. The assessor or members of the administrative review agency have not been properly selected or qualified for office.

4. The actions of the assessing agencies have not been according to statutory calendars and the taxpayer has been injured thereby.

5. The notices required by law have not been duly given and the taxpayer has been injured thereby.

6. The property has been valued as of the wrong date.

7. The property has been assessed to the wrong person. (Generally this is not ground for invalidating real property taxes.)

8. A person has been assessed twice for a single item of property. (This is not the equivalent of assessing the item of property at twice its true value.)

9. The description of the property on the tax rolls is so defective that the taxpayer's right to notice of the assessment is impaired.

10. An adequate hearing was not granted by the administrative review board upon proper request of the aggrieved taxpayer.

11. The assessor or the administrative review agency has adopted appraisal methods which are incapable of producing the valuation contemplated by law or has disregarded recognized elements of value.<sup>6</sup>

12. The assessor or the highest administrative board reviewing the assessment has acted fraudulently or has wilfully discriminated between properties without sanction of law.

<sup>6</sup> See cases cited by Robert S. Cushman, "The Judicial Review of Valuation in Illinois Property Tax Cases," *Illinois Law Review of Northwestern University* (1941) v. 35, pp. 689-97.

(The fact that the assessor has acted fraudulently does not make the assessment invalid if it has been appealed and the review board has acted without fraud.<sup>7</sup>)

Only the last two of these causes of illegality involve appraisal methods or their results. Under common law, and generally under statute law,<sup>8</sup> inaccurate valuations do not render an assessment illegal unless the inaccuracy arises from the use of arbitrary appraisal methods or from fraudulent or wilful discrimination between properties legally subject to the same value standards.<sup>9</sup>

Since most assessing officers are not required to divulge the precise procedures by which they arrive at their valuations<sup>10</sup> and all official acts are legally presumed to be valid until the contrary is shown by competent evidence, the task of proving illegality because of improper appraisal procedures or intentional discrimination is not light. However, the courts of most states have accepted gross overvaluation as presumptive evidence of fraud, wilful discrimination, or arbitrary appraisal methods, and have branded assessments based on excessive appraisals "constructively fraudulent." No court seems to have committed itself to a definition of "gross overvaluation," although an overvaluation by as little as one-third has been held constructively fraudulent in one Washington case,<sup>11</sup> and some of the lower courts of that state seem to have adopted 100 per cent overvaluation as a minimum.<sup>12</sup>

<sup>7</sup> *State v. Central Pacific Railroad Co.* (1892) 21 Nev. 172, 26 Pac. 225, 1109; *Southern Oregon Co. v. Coos County* (1901) 39 Ore. 185, 64 Pac. 646; *Phillips v. Bancroft and City of Montpelier* (1903) 75 Vt. 357, 56 Atl. 9.

<sup>8</sup> Nevada seems to provide one exception. Ch. 103, *Laws of 1933*, permits any court of competent jurisdiction to hold an assessment illegal for "excessive or disproportionate valuation."

<sup>9</sup> *Beard v. Wilcockson* (1931) 184 Ark. 349, 42 S. W. (2d) 557; *In re Blatt* (1937) 41 N. M. 269, 67 Pac. (2d) 293; *City of Tampa v. Palmer* (1925) 89 Fla. 514, 105 So. 115; 22 *Charlotte, Inc. v. City of Detroit* (1940) — Mich. —, 293 N. W. 647.

<sup>10</sup> *Chicago, Burlington & Quincy Railroad Co. v. Babcock* (1907) 204 U. S. 585, 593.

<sup>11</sup> *Northern Pacific Railroad Co. v. Pierce County* (1923) 127 Wash. 369, 220 Pac. 826.

<sup>12</sup> See *Northwestern and Pacific Hypotheekbank v. Adams County* (1933) 174 Wash. 447, 24 Pac. (2d) 1086.

Proof of discrimination is not essential to the establishment of constructive fraud in some states<sup>13</sup> but apparently is in others.<sup>14</sup>

*Review of inaccurate (erroneous or irregular) assessments*

An assessment whose legality is not in question can be reviewed by a state court only if the constitution or statutes of the state so provide. Furthermore, the process of reviewing such an assessment can be hedged about by any restrictions as to timeliness of appeal, prior appeal to administrative review agencies, compliance with laws concerning the disclosure of taxable property to the assessor, and the like, that commend themselves to the lawmakers. Naturally, then, the process varies from place to place. The typical but by no means universal rule is that those courts which can review assessments for accuracy under any circumstances at all can do so only upon reasonably prompt appeal from the highest administrative review agency.

The trial of these cases, once jurisdiction has been accepted, is almost invariably *de novo*, that is, the courts are bound by no previous record and will receive any relevant evidence on questions of fact or of law.<sup>15</sup> In fact the courts are as unrestricted as administrative review agencies, with only four important exceptions: (1) They are ordinarily restricted to decisions approving, reducing, or canceling assessments, although the courts of a few states, including Alabama,

<sup>13</sup> This is currently the situation in Washington, the state in which the doctrine of constructive fraud has been most clearly and frequently expounded, but earlier opinions held to the contrary. Compare *Kinnear v. King County* (1923) 124 Wash. 102, 213 Pac. 472, and *Tacoma Mills Co. v. Pierce County* (1924) 130 Wash. 358, 227 Pac. 500. See also the dissenting opinion in *Bellingham Community Hotel v. Whatcom County* (1937) 190 Wash. 609, 70 Pac. (2d) 301.

<sup>14</sup> The opinions are not clear on this point. See, however, *Sloman-Polk Co. v. City of Detroit* (1933) 26 Mich. 689, 247 N. W. 95; *First Trust Co. v. Wells* (1929) 324 Mo. 306, 23 S. W. (2d) 108; *Rittersbacher v. Board of Supervisors* (1934) 220 Calif. 535, 32 Pac. (2d) 135.

<sup>15</sup> This description is intended to apply only to local assessments, since state assessments are sometimes tried "on the record." West Virginia also provides a minor exception within the field of local assessment. See *West Virginia Code*, ch. 11, art. 3, sec. 25.

Montana, Virginia, and West Virginia, may also order increases in assessments; (2) as suggested by the preceding exception, they usually lack authority to entertain appeals by assessment and tax districts; (3) they are obliged to adhere to rather intricate and extensive rules of procedure and evidence; (4) they are faced with a legal presumption that the contested assessment is valid.

The trial court is usually a lower civil court of record known as a district court, circuit court, superior court, or court of common pleas. From here an appeal may often be taken to a higher court, which will review the evidence before the trial court to determine whether the findings of fact are supported by substantial evidence, remand the case to the trial court for further hearing if the evidence is inadequate,<sup>16</sup> and affirm or reverse the trial court on questions of law. This right of appeal from the trial court is specifically granted in only a few states, and is actually denied by a recently enacted law in North Dakota. Although there have been a few cases in which the appellate court has refused to accept jurisdiction without specific authorization,<sup>17</sup> the usual assumption is that the legislature intended to make available to those aggrieved by trial court decisions on assessed valuations the appellate remedies available to those aggrieved on other scores.<sup>18</sup>

Many of the courts with authority to participate actively in the appraisal aspects of the assessment process exercise their powers with great restraint. The philosophy of this restraint

<sup>16</sup> See, however, *Matter of Appeal of Lehigh Navigation Co.* (1937) 327 Pa. 327, 193 Atl. 50, in which the Pennsylvania Supreme Court, instead of remanding the case, fixed the assessed valuation of the properties concerned in order to terminate a long drawn-out case.

<sup>17</sup> *Board of Commissioners v. Pinnacle Gold Mining Co.* (1906) 36 Colo. 492, 85 Pac. 1005; *Smith Securities Co. v. Multnomah County* (1921) 98 Ore. 418, 192 Pac. 654. The first of these decisions was followed in 1911 by a law directing that writs of error shall lie to the supreme court from every final judgment, decree or order of a lower court in all actions, suits, and proceedings; the second led even more promptly to an amendment providing for direct appeal of assessment cases from the circuit court to the supreme court.

<sup>18</sup> *Colorado Tax Commission v. Colorado Central Power Co.* (1934) 94 Colo. 287, 29 Pac. (2d) 1030; M. S. Culp, "Administrative Remedies in the Assessment and Enforcement of State Taxes," *North Carolina Law Review* (1939) v. 17, p. 129.

was ably stated by Mr. Justice Rossman in a recent opinion of the Oregon Supreme Court, as follows:<sup>19</sup>

Since error is never presumed, the appealing taxpayer has the burden of proof, and since courts always presume, in the absence of evidence to the contrary, that official duty has been properly performed, the appealing taxpayer is met with a presumption of official rectitude. The latter is not a mere legally created makeweight, but is based upon the assessor's superior knowledge of the property of the appellant and of all other property in the district. For the court to acquire like knowledge of values would require extended study. Knowledge of the protesting taxpayer's property alone does not suffice—uniformity requires knowledge of every parcel of property in the assessment district. Invalidation of a single assessment may operate as the loosing of a stitch which causes the entire fabric to ravel. These circumstances have impelled courts to attach weight to the presumption that the assessor faithfully performed his duty. Clear and convincing evidence is required to overcome it. Again, much of the work of the assessor is non-judicial and the doctrine of separation of powers, a practical device for the division of labor, induces courts to hold aloof except where the assessor has ignored his constitutional and statutory duties, inadvertently or otherwise.

#### REVIEW OF ASSESSMENTS BY THE FEDERAL COURTS

Property tax assessment cases reach the federal courts by two different routes. First, a case in which a federal constitutional question is raised may be taken into a lower state court and appealed through the highest state court to the United States Supreme Court. The second route begins in a United States District Court, from which it may pass to the Circuit Court of Appeals and to the United States Supreme Court.<sup>20</sup> A case starting in a United States District Court must meet two prerequisites: (1) The amount of tax in controversy, exclusive of interest,<sup>21</sup> must be at least \$3000; (2) there must be either

<sup>19</sup> *Appeal of Kliks* (1938) 158 Ore. 669, 76 Pac. (2d) 974.

<sup>20</sup> If an injunction is sought against the enforcement of a state tax law on the grounds that it is unconstitutional, the case is tried in the District Court before three judges and may then go directly to the United States Supreme Court. This procedure is seldom applicable to property tax cases.

<sup>21</sup> But not exclusive of penalties accrued at the time suit is filed. *Healy v. Ratta* (1934) 292 U. S. 263, 268.

a diversity of citizenship<sup>22</sup> or an alleged violation of the federal Constitution.<sup>23</sup>

Most litigants who have gone into the federal courts with property tax assessment cases have sought to have the collection of taxes enjoined. Injunctions have been freely issued on one or more of three well recognized grounds of equity jurisdiction: (1) to avoid a multiplicity of suits at law, particularly in cases involving railroads which are taxed by a multitude of local governments; (2) to prevent or remove clouds on the title to real property; and (3) to prevent irreparable injury to a taxpayer's business or property. However, the established principles of equity limit the jurisdiction of federal courts as well as state courts. Consequently, a writ of injunction will not be issued until administrative remedies have been exhausted,<sup>24</sup> nor will the writ be issued if it appears that payment of the tax followed by a suit for its recovery in the United States District Court would afford an adequate remedy.<sup>25</sup> To these limitations Congress recently added a third, comparable to and occasioned by the previously mentioned state laws barring tax injunctions. The Judicial Code now prohibits a federal court from enjoining, suspending, or restraining "the assessment, levy, or collection of any tax imposed by or pursuant to the laws of any State where a plain, speedy, and efficient remedy may be had at law or in equity in the courts of such State."<sup>26</sup> Thus at the present

<sup>22</sup> That is, the taxpayer must be legally domiciled in some state other than the state in which the tax is imposed.

<sup>23</sup> Prior to 1900, jurisdiction was generally assumed by these courts on grounds of diversity of citizenship, and most decisions were based upon the uniformity clause in the constitution of the state in which the tax was assessed. But shortly after the turn of the century, the federal courts began to take jurisdiction on the ground that the cases involved possible infringements of the equal protection and due process clauses in the Fourteenth Amendment to the federal Constitution. (See Kenneth K. Luce, "Assessment of Real Property for Taxation," *Michigan Law Review* (1937) v. 35, pp. 1245-47.)

<sup>24</sup> *First National Bank v. Board of County Commissioners* (1924) 264 U. S. 450.

<sup>25</sup> *City Bank Farmers Trust Co. v. Schnader* (1934) 291 U. S. 24; *Risty v. Chicago, Rock Island & Pacific Railway Co.* (1926) 270 U. S. 378, 388.

<sup>26</sup> *U. S. Code*, Title 28, sec. 41 (1), as amended Aug. 21, 1937, ch. 726, sec. 1, 50 Stat. 738. Culp cites five different conditions under which the federal

time, the federal courts will not issue a tax injunction if such an injunction is obtainable from a state court or if suits for recovery of tax payments can be instituted in either the state or the federal courts with reasonable expectation that justice will be speedily and efficiently dispensed.

The principal alternative to the injunction procedure, in the federal courts as in the state courts, is a suit for recovery of taxes. This is ordinarily a less attractive procedure, since the whole of the tax based upon the contested assessment must be paid before bringing suit, whereas only that portion of the tax conceded to be due, or considered by the court to be due on the face of the record, need be paid or tendered before entering a petition for a writ of injunction. However, the legal restrictions on injunctions have made the suit for recovery of taxes the most important remedy in the federal courts.

A tax which has been paid can be recovered by action in a federal court only to the extent that it is recoverable by action in the courts of the state in which it is imposed. Thus, if there is a state law permitting recovery of taxes paid under protest, suit for recovery of protested taxes may be instituted in either the state or the federal courts, assuming, of course, that the amount of tax involved exceeds \$3000 and that there is either a diversity of citizenship or an alleged violation of the federal Constitution.<sup>27</sup> In the absence of such a state law, a suit may still be entertained if the tax was collected under duress.<sup>28</sup> Just what constitutes "duress" is too large a subject

courts have concluded that there existed no "plain, speedy, and efficient remedy" in the state courts: (1) insolvency of taxing officials (to which should be added insolvency of the taxing district when the suit for recovery of taxes is to be brought against the district rather than the collector); (2) uncertainty regarding the appropriate forum under the state law; (3) uncertainty whether a suit may be maintained against the governmental officer or taxing district; (4) severe limitations upon the legal remedy amounting to its impairment (see, for example, *Hopkins v. Southern California Telephone Co.* (1928) 275 U. S. 393); (5) inadequacy or uncertainty of the administrative remedy where this is the recognized remedy under the state law. (M. S. Culp, "The Powers of a Court of Equity in State Tax Litigation," *Michigan Law Review* (1940) v. 38, p. 613.)

<sup>27</sup> *City Bank Farmers Trust Co. v. Schnader* (1934) 291 U. S. 24.

<sup>28</sup> *Carpenter v. Shaw* (1930) 280 U. S. 363.

to be treated in this volume, but it may be observed in passing that the federal courts have not been overly exacting in their construction of the term.<sup>29</sup>

Whatever the procedure employed, illegality, and not mere inaccuracy, must be alleged by one seeking invalidation of a property tax assessment in the federal courts. Since state courts are supposed to enforce the federal Constitution and federal courts are bound by state laws unless they offend the federal Constitution,<sup>30</sup> substantially the same criteria of legality are recognized by both branches of the judicial system. For a good many years relief was granted in the federal courts only on a showing of actual fraud or of "intentional" or "intentional and systematic" discrimination.<sup>31</sup> Then the theory that gross overvaluation without discrimination violates the due process clause of the Fourteenth Amendment was adopted by the United States Supreme Court, only to be renounced five years later.<sup>32</sup> Assessments made by "arbitrary" or "improper" methods, even though unaccompanied by a showing of bad faith on the part of assessing officers or by anything more explicit than a presumption that they resulted in "systematic

<sup>29</sup> See Robert C. Brown, "State Property Taxes and the Federal Supreme Court," *Indiana Law Journal* (1939) v. 14, pp. 522-23.

<sup>30</sup> Under a recent decision, *Erie Railroad Co. v. Tompkins* (1938) 304 U. S. 64, the federal courts are equally bound by a state's common law and its statutory law.

<sup>31</sup> "It must be regarded as settled that intentional, systematic undervaluation by state officials of other taxable property in the same class contravenes the constitutional right of one taxed upon the full value of his property. . . . It is also clear that mere errors in judgment by officials will not support a claim of discrimination. There must be something which in effect amounts to an intentional violation of the essential principle of practical uniformity. . . . The record discloses facts which render it more than probable that plaintiff in error's mines were assessed . . . relatively higher than other lands within the county although the statute enjoined the same rule for all. But we are unable to conclude that the evidence suffices clearly to establish that the State Board [of Tax Commissioners] entertained or is chargeable with any purpose or design to discriminate." *Sunday Lake Iron Co. v. Wakefield* (1918) 247 U. S. 350. See also *Sioux City Bridge Co. v. Dakota County* (1922) 260 U. S. 441.

<sup>32</sup> According to the dissenting opinion of Mr. Justice Stone, this theory was first adopted by the Supreme Court in *Great Northern Railway Co. v. Weeks* (1935) 297 U. S. 135. It was renounced in substance but not in so many words in *Nashville, Chattanooga & St. Louis Railway v. Browning* (1940) 310 U. S. 362.



discrimination," have occasionally been invalidated by the federal courts as they have by the state courts.<sup>33</sup>

In the event a federal court finds an assessment invalid, it is without authority to reassess the property. Instead, the regular assessing officers are to make the reassessment, state law permitting, in accordance with the findings of fact and conclusions of law stated in the court's decision.<sup>34</sup> This may be an empty gesture when the findings of fact include an appraisal of the property. But an increasing number of states have enacted laws authorizing reassessments in the event original assessments are invalidated by the courts, and there are at least some instances in which it is permissible to establish a new assessment at a valuation differing from that upon which taxes based upon the original assessment are collectible or retainable under the court decision.

#### WHY HAVE JUDICIAL REVIEW?

The need for judicial review of administrative action has been argued at great length in recent years. Some authorities have contended that aggrieved persons, in a country dedicated to "rule by law and not by men," are entitled to judicial review of all findings of administrative agencies, whether they be findings of fact or of law. Others believe that judicial review should be confined to findings of law or that there should be no judicial review at all.

The American Bar Association's Committee on Administrative Law has advanced ten reasons for denying finality to the findings of administrative tribunals, each reason being based upon an alleged defect in the organization, personnel,

<sup>33</sup> See especially *Johnson v. Wells, Fargo & Co.* (1915) 239 U. S. 234. Two recent cases—*City of Detroit v. Detroit & Canada Tunnel Co.* (1937) 92 Fed. (2d) 833, and *Bailey v. Megan* (1939) 102 Fed. (2d) 651—were apparently decided partly on this ground and partly on the subsequently discredited ground of gross overvaluation. There have been many other instances in which railroad assessments have been invalidated because of improper apportionment of unit values among states, and this aspect of the assessment process provides a close parallel to the appraisal aspect. However, local assessors are seldom required to apportion appraisals in such manner as to give rise to litigation.

<sup>34</sup> *Great Northern Railway Co. v. Weeks* (1935) 297 U. S. 135, 153; *City of Detroit v. Detroit & Canada Tunnel Co.* (1937) 92 Fed. (2d) 833, 837.

or procedures of such tribunals.<sup>35</sup> These ten defects are:

1. A tendency to decide without hearing one of the parties.
2. A tendency to decide on the basis of matters not before the tribunal or on evidence not produced.

3. A tendency to make decisions on the basis of pre-formed opinions and prejudices.

4. A tendency to consider the administrative determining function one of acting rather than of deciding, to apply to the determining function the methods of the directing function.

5. A tendency to disregard jurisdictional limits and seek to extend the sphere of administrative action beyond the jurisdiction confided to the administrative board or commission and to extend the regulatory power of the administrative agency.

6. A tendency to do what will get by, to yield to political pressure at the expense of law.

7. A tendency to arbitrary rule-making for administrative convenience at the expense of important interests.

8. A tendency at the other extreme to fall into a perfunctory routine.

9. A tendency to exercise of jurisdiction by deputies.

10. A tendency to mix up rule-making, investigation, prosecution, the advocate's function, the judge's function, and the function of enforcing the judgment, so that the whole proceeding from end to end is one to give effect to a complaint.

The defenders of the administrative process deny the existence of certain of these defects, contend that others are not defects at all, and suggest that the courts suffer from some of the same defects or from others even more serious. The arguments of this group may be summarized as follows:

1. Judges are usually trained only in the law and hence are unfitted for fact finding in highly technical fields.

2. The courts have jurisdiction over such a wide variety of cases that it is difficult for judges to compensate through

<sup>35</sup> *Report of the American Bar Association* (1938) v. 63, pp. 346-51.

experience for their lack of technical training outside the law.<sup>36</sup>

3. The reverence of jurists for precedent, coupled with their insulation from the electorate and their long tenure of office, renders them unresponsive to changing social needs and attitudes.<sup>37</sup>

4. Adherence to formal rules of evidence and procedure makes court action slow, cumbersome, and expensive, with the result that the courts are overburdened when unrelieved by administrative tribunals<sup>38</sup> and judicial review is practically unavailable to persons whose economic resources are few or whose grievances involve small sums.<sup>39</sup>

5. Findings of fact by a court are usually applicable only to the case being tried, and decisions based thereon are reached with little or no regard for their implications for other assessments which have not been appealed.<sup>40</sup>

<sup>36</sup> City Club of New York, Committee on Taxation and Finance, *Property Assessment Review*, 1938, p. 6.

<sup>37</sup> J. M. Landis, *The Administrative Process*, Yale University Press, New Haven, 1938, pp. 31-34; John Foster Dulles, *Administrative Law*, address delivered under the joint auspices of the Bar Association of the City of Boston and Harvard Law School, Jan. 14, 1939, pp. 22-23.

<sup>38</sup> Reports indicate that the numbers of pending court appeals on assessments in certain large cities in New York State on relatively recent dates were: Syracuse, 4000; Schenectady, 150; Albany, 472; New York City, 39,476. In 1940 9,293 writs of certiorari were disposed of in New York City, and 8972 new writs were filed. At the 1940 rate, it would require 123 years to dispose of the accumulated writs in this city.

<sup>39</sup> "If one considers the amount of preparation and time which defense of certiorari proceedings demands of public officials and the fact that the estimated cost of each case ranges between \$1000 and \$10,000, the dissatisfaction with these proceedings expressed by certain informed groups may be appreciated. . . . The costs of the reference and the fees of expert witnesses make these proceedings so expensive that unless a reduction of \$10,000 or more is contemplated, it scarcely pays to initiate proceedings." (New York State Constitutional Convention, *Problems Relating to Taxation and Finance*, 1938, pp. 154, 187.) "The calendar fee alone calls for more than an \$800 reduction in assessment to meet it, but the attributes of the writ in the attorney's fee and later an expert's fee raise the proceedings from the class of the small property owners. . . . If the plaintiff secures less than half of a reduction requested, he usually must bear the expenses of the action." (City Club of New York, *op. cit.*, p. 6.) "Witnesses testified . . . that the cost [of certiorari actions] was prohibitive on properties assessed for less than \$100,000 or \$75,000." (*First Report of the Joint Legislative Committee on Assessing and Reviewing of the State of New York*, 1941, p. 35.)

<sup>40</sup> John A. Zangerle, "An Appraisal of Expert Appraisers," *Municipal Finance*, November 1938, p. 25; Landis, *op. cit.*, pp. 37-38.

6. The existence of judicial review agencies has lessened the incentives for perfection of the administrative process despite the fact that judicial review is virtually unavailable to the great majority of taxpayers.<sup>41</sup>

An examination of the arguments discloses that the propriety of judicial review depends very much upon the character of the administrative tribunal whose decisions are in question, and also upon the character of the courts themselves. Sweeping statements in support of unlimited judicial review on the one hand, or of complete finality of administrative decision on the other, ignore the existence of great variations in the organization and personnel of these agencies. Where original assessment and assessment review agencies are well organized and well staffed there may be ample justification for restricting the jurisdiction of the courts to illegal assessments or to a review only of the administrative agencies' conclusions on questions of law. On the other hand, if some or all of the administrative agencies involved in the assessment process fall far short of perfection, the case for such a restricted jurisdiction is greatly weakened. Where the latter situation exists there may be virtue in allowing the court to decide in each case whether the administrative decision was sound. Let us hasten to add, however, that this is not a happy solution, but a choice between two evils.

#### RECOMMENDATIONS

In no field of administrative law have the courts been less insistent upon reviewing both findings of law and findings of fact than in the tax field.<sup>42</sup> This serves to restrict actual judicial review of assessments to a relatively small area. Nevertheless, there is within this area a problem of some magnitude, toward the solution of which the following recommendations are directed.

<sup>41</sup> Cf. the dissenting opinion of Mr. Justice Brandeis in *St. Joseph Stock Yards Co. v. United States* (1936) 298 U. S. 38, 81.

<sup>42</sup> John Dickinson, *Administrative Justice and Supremacy of the Law*, Harvard University Press, Cambridge, 1927, p. 40; Landis, *op. cit.*, pp. 129-30.

1. *Where there is a competent administrative review agency on the state level, its determination of questions of fact should be final if supported by substantial evidence.*

It has frequently been recommended that the courts be excluded from consideration of questions of fact pertaining to tax assessments, provided suitable provision is made for administrative review of such questions.<sup>43</sup> We endorse this recommendation for all states in which there is a competent administrative review agency on the state level. Such an agency should meet the criteria of competence set forth in the preceding chapter and should also be continuously available for rehearing in the event a case is remanded by the courts. It should be staffed with persons specially qualified in the appraisal and tax field, whereas the courts are almost necessarily staffed with persons relatively untrained and inexperienced in these fields. The courts would, of course, be permitted to review administrative findings to see that they were supported by evidence.<sup>44</sup>

The principal objection which has been raised by those who oppose this recommendation is that state administrative review agencies tend to be biased in favor of local assessors. This danger, it is said, is particularly inherent in a state tax commission or similar body which performs the review function and also supervises the property tax assessment process. Since the effective conduct of the supervisory function usually

<sup>43</sup> Kentucky Efficiency Commission, *Revenue and Taxation*, 1923, pp. 97-98; Ohio Tax and Revenue Commission, *Preliminary Report of General Findings and Recommendations*, 1938, p. 7; M. S. Culp, "Administrative Remedies in the Assessment and Enforcement of State Taxes," *North Carolina Law Review* (1939) v. 17, p. 130; National Industrial Conference Board, *State and Local Taxation of Property*, 1930, p. 65; National Association of Assessing Officers, *Assessment Principles*, 1939, p. 100; J. P. Jensen, *Property Taxation in the United States*, The University of Chicago Press, Chicago, 1931, p. 400.

<sup>44</sup> "The United States Supreme Court, commenting upon a statute providing that findings of fact made by the National Labor Relations Board shall be final "if supported by evidence," recently said, "... this, as in the case of other findings by administrative bodies, means evidence which is substantial. . . . Substantial evidence . . . must do more than create a suspicion of the existence of the fact to be established. It means such relevant evidence as a reasonable mind might accept as adequate to support a conclusion . . ." *National Labor Relations Board v. Columbian Enameling & Stamping Co., Inc.* (1939) 59 S. Ct. 501, 505.

depends upon the establishment of cordial relations with assessors, there is presumed to be a tendency for such a review agency to sustain appealed assessments against the weight of the evidence. In a few states this objection has been overcome by separating the supervisory and review functions, placing the first in the hands of the state tax department, the second in the hands of an independent state board of tax appeals. Yet the very fact that the tax department has continuous contacts with local assessors and their problems qualifies it highly as an expert in assessment matters, and some authorities believe that it is to be preferred as a review agency over an independent tax appeals board.<sup>45</sup> We believe that either is superior to a court of general jurisdiction as a fact-finding agency.

A second objection to the recommendation is that the line of demarcation between questions of fact and questions of law is too vague to permit easy and useful classification. There can be no doubt about this vagueness. Indeed, some sceptics contend that the courts declare to be matters of law that which they desire to review.<sup>46</sup> Nevertheless, there are many questions which are easily classified. For example, whether or not a certain article of property was within a tax district on a certain date or over a certain period of time is clearly a question of fact; whether or not the presence of the article within the district gave it tax situs therein is clearly a question of law. Likewise, the market value of an article of property is a question of fact, and whether the statutes require that taxes be based on market value is a question of law. But granting the existence of many questions of mixed fact and law, we believe

<sup>45</sup> Compare Lutz, "Some Essentials of Good Tax Administration," *Proceedings of the National Tax Association* (1936) v. 29, p. 324. "The principal difficulty with a board of tax appeals is that it is neither a judicial nor an administrative authority. Its rulings on legal questions have no standing, for it is not a court. Yet, not being an administrative agency, it has no staff facilities for conducting the kind of investigation that an administrator might undertake. . . . It must therefore resort to the accepted technique of adjudication, which consists of listening to the testimony of strongly biased witnesses. . . ."

<sup>46</sup> John Dickinson, *op. cit.*, p. 55.

that the legislature can and should give the courts some guidance as to their jurisdiction by endorsing the principle that determinations of questions of fact by the highest administrative body hearing an assessment appeal should be final, leaving the distinction between fact and law to the discretion of the courts.

The courts themselves would probably welcome such guidance, particularly in states in which they are now required to review assessments for accuracy as well as legality. Many courts have expressed their reluctance to disturb the assessed valuations which they are forced to review upon appeal. If this reluctance is not real, adoption of the recommendation under discussion may mean very little. But there is reason to believe that the courts are sincere in their protestations and that they will gladly retire from the valuation field if they are relieved of their present duties and instructed to accept the findings of administrative assessment agencies on questions of fact.

***2. If finality is not given to decisions of the highest administrative agency on questions of fact, plaintiffs should at least be required to exhaust their administrative remedies before appealing to the courts on such questions.***

Because of the strong disposition of the courts to accept findings of fact by administrative agencies in the field of revenue, judicial review of such findings is not a particularly serious threat to the administrative process.<sup>47</sup> However, a situation in which administrative review of inaccurate assessments is incomplete because the law permits appeal to the courts without exhaustion of administrative remedies is distinctly undesirable. There can be no effective development of the administrative agencies and no equality in distribu-

<sup>47</sup> Exceptions do exist in such states as New York and Pennsylvania, in many parts of which there are no separate original assessment and administrative review agencies. Here, although professing to adhere to the customary presumption in favor of the assessor's judgment, the courts have shown little disposition to rely upon the presumption and have established themselves, for all practical purposes, as coordinate assessing agencies.

tion of tax burdens when large or well-to-do taxpayers are free to select one of two review agencies in accordance with their judgments as to which will give the better bargain.

**3. Exhaustion of administrative remedies should also be required as a condition precedent to judicial review of questions of law involving valuation of property.**

It seems only logical that the courts, who are presumed to have special knowledge of the law, should exercise the power of final disposition of questions of law. This does not mean, of course, that the administrative bodies are to have no power to decide such questions. If properly constituted, these bodies are well versed in the legal aspects of taxation and are served by competent legal counsel on the state level if not on the local level. Often this knowledge is adequate for proper disposition of legal questions with much greater dispatch and less expense than is possible through court action. Coupled with the impossibility of clearly distinguishing questions of law from questions of fact, these considerations indicate the necessity of giving the administrative tribunals jurisdiction over questions of law, even though finality is not granted to their findings in this field.

A requirement that administrative remedies be exhausted on all questions of law seems unnecessary if not undesirable. However, exhaustion of administrative remedies is recommended when an assessment is alleged to be illegal because of discriminatory or grossly excessive valuation. There is a difference only in degree between such allegations and the charges of inaccuracy which are handled regularly by boards of review, and the agency best qualified to handle one case is best qualified to handle the other. As long as the door to the courts is left open, there should be little objection to routing this type of case first to the administrative review agencies.<sup>48</sup>

<sup>48</sup> Compare B. P. McAllister, "Taxpayers' Remedies," *Washington Law Review* (1938) v. 13, pp. 128-30; E. B. Stason, "Judicial Review of Tax Errors," *Michigan Law Review* (1930) v. 28, p. 661. The latter writer approves the requirement of exhaustion of administrative remedies in these cases only if accompanied by adequate notice of assessment to the taxpayer.



**4. *The judicial concept of constructive fraud should be restricted by statutory law to a showing of discrimination and should not extend to a mere showing of overvaluation.***

Practically all writers are agreed that the assessor should endeavor to assess at the full statutory standard of value. The reasons for this are numerous,<sup>49</sup> but the principal one is that assessment at any lower rate often results in public acquiescence in a highly discriminatory assessment. Many an assessor purposely falls short of the statutory standard with the excuse that review agencies tend to reduce what they deem to be overvaluations without regard for the effect of such reductions upon taxpayers who have not complained and who may, for all the record shows, be assessed at as high a level as those seeking and obtaining concessions. If the assessment level is to be kept near the statutory standard, something needs to be done to protect the assessor against reductions based solely on grounds of overvaluation.

Bonbright, while admitting that it may be the lesser of two evils, has cited two objections to the proposition which we are defending:<sup>50</sup>

It would in effect render void the constitutional and statutory debt limits and tax-rate limits based on assessed valuations. And unless supported by adequate machinery whereby the taxpayer could establish the ratio of overvaluation in his community, it would make hopeless any appeals to the courts except, perhaps, those brought by very large taxpayers who could spend hundreds of thousands of dollars in establishing the general level of assessment.

As far as the first of these problems is concerned, we believe that it is a proper matter for disposition by boards of equalization and not by the courts. If the assessor is actually voiding debt and tax-rate limits by establishing an assessment level in excess of the statutory standard, the courts will probably have little success in producing the desired level for the simple reason that they will have occasion to change only a small

<sup>49</sup> See *Assessment Principles*, pp. 33-36.

<sup>50</sup> *The Valuation of Property*, The Macmillan Co., New York, 1937, p. 471.

fraction of the total number of assessments.<sup>51</sup> But it is more likely that a disposition on the part of the courts to correct overvaluations without showing of discrimination will induce assessors to lower the average assessment ratio to substantially less than the statutory standard, in which case debt limits and tax-rate limits will be nullified in the sense that they are made more restrictive than is contemplated by law.<sup>52</sup> On the whole, we believe that this argument must be resolved in favor of the proposal to make judicial relief dependent upon a showing of discrimination.<sup>53</sup>

Bonbright's second point is believed to be of more importance than the first. Yet we do not feel that it should alter our conclusion as previously stated. With proper administrative review, few cases will reach the courts and those which do will usually warrant the expenditure of effort necessary to support an allegation of discrimination. It is understood, of course, that the burden of proof is on the taxpayer to show discrimination, not upon the assessor to show uniformity.<sup>54</sup> This is not, however, an intolerable burden. When the discrimination is so great as to invite judicial interference, there should be no lack of evidence. It is necessary only to introduce testimony concerning the absolute or relative values of other

<sup>51</sup> By way of illustration, the courts during a recent period of a little more than six months made reductions in the Borough of Manhattan assessments amounting to approximately \$84 million, which is only a little over 1 per cent of the assessed valuation of the Borough. Of course the threat of judicial review resulted in lower assessments in some other cases, but it is impossible to say what weight should be given to this factor. There are probably few districts in which percentage reductions amount to as much as 2 per cent in a normal year.

<sup>52</sup> This is particularly important when the assessor is an officer of a tax district which is not severely restricted as to taxes and debts and his assessments are used by other less fortunate districts.

<sup>53</sup> Several interesting proposals to preserve debt and tax-rate limits without permitting the courts to invalidate an assessment simply on grounds of overvaluation are discussed in the report entitled *Problems Relating to Taxation and Finance* (pp. 188-92), issued by a subcommittee of the New York State Constitutional Convention Committee in 1938.

<sup>54</sup> Note that this is the opposite of the position recently taken by the New York Court of Appeals in the case of *People ex rel. Amalgamated Properties, Inc. v. Sutton* (1937) 274 N. Y. 309, 8 N. E. (2d) 871. "Courts will not assume that all property in the assessment district has been overvalued. Unless such is shown to be the fact, then the assessment of relator's property in excess of its full market value involves inequality."

parcels of property, as evidenced by private appraisals or sales, and the courts will probably not demand that the comparison extend to a large number of such properties.

**5. *In no event should appeals on assessments be tried by jury.***

The practice of trying assessment appeals by jury is so unusual that it calls for only passing mention. Juries, as a rule, are even less fitted than judges to determine valuations.<sup>55</sup> Furthermore, juries are noted for their willingness to favor private parties as opposed to the public in condemnation cases, and the same tendency is apparent in disposition of assessment appeals.

**6. *The process of judicial review should be simplified and clarified so that taxpayers will be more fully aware of their rights and duties and taxes will be collected as promptly as possible.***

Our study of the process of review, both administrative and judicial, convinces us that the laws of many states should be simplified and clarified to the end that taxpayers may readily ascertain their rights and pursue their legal remedies and that the public may be protected against undue delay in the verification of the assessment roll and the collection of taxes. The present remedies of taxpayers consist of a jumble of statutory, common-law, and equity proceedings, the intricacies of which are known only to specialists in tax law. The result is that taxpayers are frequently denied relief simply because they have failed to acquaint themselves with technicalities of law, while others receive relief long after budgets have been prepared and after anticipated or collected taxes that prove later to be uncollectible or refundable, have been spent by the taxing agencies. A complete codification of the

<sup>55</sup> This is especially true when the judge is guided in his decision by the report of a referee or master. While the practice of appointing well qualified referees is far from universal, it is a possibility which is at least open to the judges of many trial courts. See on this point J. H. Beuscher, "The Use of Experts by the Courts," *Harvard Law Review* (1941) v. 54, pp. 1105-27.

law which would minimize the number of types of proceedings while maintaining a simple and straightforward avenue of relief is therefore in the interests of taxpayers and the public alike.<sup>56</sup>

### CONCLUSION

The general viewpoint of the committee on the subject matter of this chapter has been very well stated by the Attorney General's Committee on Administrative Procedure in the summary of its report.<sup>57</sup>

The proper function of judicial review is to confine administrative action to the fair exercise of legally conferred authority, not to substitute judicial for administrative decision. The judicial inquiry should, broadly speaking, be limited to whether the agency acted within the scope of its authority, whether the procedure was fair and whether the decision was based upon substantial evidence. The courts have the final word on statutory and constitutional interpretations; they require that a fair hearing be given; and they check arbitrariness or incompetence by their requirement that substantial evidence of record support the administrative findings of fact . . . . Reviewing courts do not and cannot insure "right" decisions; the best assurance of fair and correct determinations lies in the recommended improvement in the earlier phases of administrative procedure and in a wise choice of administrative personnel.

<sup>56</sup> Just what remedies should be available and on what terms are subjects which go beyond the scope of the committee's assignment. It is suggested, however, that the prohibition of injunctions and the elimination of duress or protest as a prerequisite to recovery of taxes paid be considered in this connection.

<sup>57</sup> *American Bar Association Journal* (1941) v. 27, p. 145.

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## Chapter IX

### Equalization Agencies

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THE DISTINCTION between the process of equalization and the process of review is not one commonly made by legislatures or even by writers on taxation. It is therefore necessary at this point to repeat that the alteration of individual assessments on the basis of evidence pertaining to particular parcels of realty or particular holdings of personalty is the result of what we have called the review process, whereas the alteration by a uniform percentage of the assessed valuation of a whole group of properties on the basis of evidence pertaining to the group as a whole results from what we term the equalization process. A great many agencies may act as both review and equalization boards. Logically such agencies ought to be called boards of equalization *and* review. Actually they are usually called boards of equalization, although they almost invariably act chiefly as boards of review.

#### THE EQUALIZATION FUNCTION

The equalization process, as so conceived, fulfills or is capable of fulfilling at least six different purposes, as follows:

1. To equalize the burden of taxes imposed by a governmental unit which is not itself an assessment district but which bases its taxes upon assessments made by two or more independent assessment agencies.
2. To equalize the tax burden upon two classes of property which are subject to the same or related tax rates but which

are assessed by two or more independent assessment agencies.

3. To equalize the apportionment of moneys collected by one governmental unit and distributed to several other governmental units when the formula for distribution depends directly or indirectly upon the assessed valuations of these other governmental units and their assessed valuations are determined by two or more independent assessment agencies.

4. To implement tax rate and debt limitations by preventing their nullification through overassessment and their intensification through underassessment.

5. To equalize the tax burden upon different types of property within the jurisdiction of a single assessment agency when that agency has unlawfully discriminated between types.

6. To equalize the tax burden upon property located in different parts of a single assessment district when the assessment agency has unlawfully discriminated between areas.

*Equalizing taxes of governments which are not assessment districts*

The original purpose of equalization was to bring local assessment districts to a uniform level before imposition of a tax by a government whose area embraced two or more such districts, and this is still a highly important objective. To illustrate, if the assessment level in one county, before equalization, is 50 per cent of full value and that of another county 75 per cent, the state equalization agency is supposed to ascertain these facts and to order such changes as are necessary for proper distribution of a state property tax. Specifically, the order may require a change in assessed valuations, say a 50 per cent increase in the assessments of the first county; or it may require that the state tax be extended on existing assessed valuations at a rate which is 50 per cent higher in the first county than in the second. The equalization is intended to prevent one local assessment district from profiting at the expense of another by undervaluing or omitting taxable property.

The need for an equalization agency is not confined, however, to instances in which the taxing district embraces the whole of two or more assessment districts. A city which is situated in more than one county and in a state with a county assessment pattern has the same need for such an agency as has the state in the previous example. *Wherever a tax is intended to be levied at a uniform rate on assessments made by two or more independent agencies, a need for the equalization process may be expected to develop.*<sup>1</sup>

*Equalizing taxes on state- and locally assessed properties*

Another example of the principle just stated is frequently found where some property is assessed by a state agency and other property is locally assessed. It may be that the state-assessed property is taxed at a rate which bears no fixed relation to general property tax rates. In this case, illustrated by most state-assessed taxes on intangibles, there is no occasion for equalization of state and local assessment levels. But frequently state-assessed property is taxable in one of two other ways. First, it may be taxed at the average general property tax rate throughout the state, as are certain public utilities in Michigan and Wisconsin. Local assessed valuations should then be equalized at full value before they are added together and divided into the total amount of taxes extended against them to get the average rate. Second, state-assessed property may be certified to the officials of local assessment districts for inclusion in local assessment rolls and extension of taxes at local general property tax rates. In this case, either the state *assessment* agency should vary its assessment level from one district to another to conform to variations in the levels attained by local assessors or a state *equalization* agency should order such adjustments in state-assessed valuations or in local

<sup>1</sup> Note that lack of an equalization agency may give rise to the creation of an overlapping assessment agency (see p. 69). As a matter of fact, there are border-line cases (e. g., New York school districts prior to 1921) in which an agency may be classified either as an overlapping original assessment agency or as an equalization agency.

assessed valuations as are required to eliminate these variations in assessment levels.<sup>2</sup>

*Equalizing shared taxes and grants-in-aid*

The third purpose of the equalization process is essentially a converse of the first. Instead of (or in addition to) imposing taxes upon the basis of assessments made by two or more local assessment districts, many state governments distribute funds to their local governments according to formulas involving local assessed valuations. The same necessity for equalization of local assessment levels exists whether the flow of funds is from the local governments to the state government or vice versa.

The usual procedure for sharing a state-collected tax with local governments according to a formula involving local assessed valuations is a simple one; the amount which is to be shared is divided among local governments in proportion to their assessed valuations. Since this is the converse of a state property tax levy, each local government is encouraged to increase its assessment, and the state equalization is intended to prevent one assessment district from profiting at the expense of another by overvaluing its property.

There is, however, only a small amount of money distributed by state governments to local governments in direct proportion to their assessed valuations. Most of the distributions which call for assessment equalization are what are known as "equalization" grants-in-aid.<sup>3</sup> In a typical case, each local school district is required to levy a tax of 10 mills on each \$1 of its assessed valuation, and if this does not raise a sum equal

<sup>2</sup> There are several states in which state-assessed property is certified to local governments at what is considered to be a state-wide average assessment level although local deviations from this level are known to exist. This may be done either as a matter of administrative convenience or as a matter of law (see *Mobile & Ohio Railroad v. Commission* (1940) 374 Ill. 75, 28 N. E. (2d) 100), but it does not affect the validity of the theory stated in the text.

<sup>3</sup> The term used to describe this type of grant was not derived from the demand which it creates for an assessment equalization agency, but rather from the fact that it is intended to equalize the burden of providing a certain level of government service throughout the state.



to \$80 per pupil the state makes up the balance. Obviously, this gives local officials an incentive to keep the local assessed valuation low so that the state will have a large balance to make up.

### *Implementing tax rate and debt limitations*

Still another purpose which an equalization can serve is to make property tax rate limitations and certain types of debt limitations operate as contemplated by law. Most local governments are prohibited by their state constitutions, state statutes, or locally adopted charters from levying property taxes and incurring bonded indebtedness in excess of specified percentages of their assessed valuations. State governments, too, are often constitutionally restricted as to property tax rates. Obviously, limitations of this sort can be made more or less rigorous by a policy of general under- or overassessment. Thus a tax rate of 20 mills becomes, in effect, a 10-mill limitation if property is assessed at 50 per cent and a 25-mill limitation if property is assessed at 125 per cent, while a 10 per cent debt limit becomes 5 per cent and  $12\frac{1}{2}$  per cent, respectively, under the same circumstances. If the limitations are expressed in terms of equalized assessed valuations, as they are in some states, the equalization agency has the opportunity to prevent such administrative modifications of the law.

### *Equalizing between classes of property*

In the preceding paragraphs we have spoken of "levels" of assessed valuations as if there were for any particular assessment district a single percentage of full value at which all taxable property in the district was listed on the tax rolls and as if lack of equalization were due entirely to the deliberate adoption of different percentages of full value by different assessment agencies. Actually, of course, there are in almost every assessment district some taxable properties that are originally assessed at more than full value, others that are originally assessed at less than full value, and still others that

are not assessed at all. Not all of these inequalities are ironed out by the review agencies. Therefore, the assessment "level" which has been referred to is, in reality, an average of a great many different percentages of full value, ranging from zero to perhaps several hundred. There are various methods of computing this average, the most obvious of which is to divide the total assessed valuation by the estimated full value of all legally taxable property.

Intra-district inequalities of the type just referred to are for the most part adapted to correction by a review agency. If a particular residence is overassessed relative to other residences, the disparity should be corrected upon complaint of the owner by reducing the assessment of this one residence. But if all residences in the district were uniformly over-assessed relative to other property in the district, whether deliberately or inadvertently, the situation would call for a proportionate decrease in all residential assessments by an equalization agency and should not require individual appeals and individual hearings.

*Equalizing between areas within a single assessment district*

The final equalization function is similar to the preceding except that it is designed to correct geographical inequalities within an assessment district rather than inequalities between different classes of property. It is also similar to the first equalization function, except that the first equalization function described was the elimination of geographical inequalities *among*, rather than *within*, assessment districts.

Geographical inequalities within a single assessment district are seldom of the sort that can be corrected by an equalization order. It is quite possible for an assessor unintentionally to over- or undervalue by a given percentage all properties of a particular class within his district simply by selecting a unit value which is too high or too low and applying this unit value throughout the district. But geographical inequalities, unless they arise from a deliberate effort to assess at different

percentages of full value in different sections, are likely to be confined to real estate and more particularly to land. And, although over- or undervaluation of land in particular areas is not uncommon, it is most unlikely that all parcels within an area will be over- or undervalued by a uniform percentage.

### THE PREVALENCE OF EQUALIZATION AGENCIES

An administrative review board whose jurisdiction extends over only one assessment district is usually both a board of review and a board of equalization; that is, it may deal either with individual assessments, with the assessment of a whole group of properties, or with the aggregate assessment of the district.<sup>4</sup> However, such boards are usually preoccupied with their review activities and seldom perform equalization functions. Consequently, those equalization boards which examine the rolls of several assessors are the agencies to which particular attention is directed in this chapter. In the latter category there are approximately 24 city boards in cities with ward assessors,<sup>5</sup> 1037 county boards in counties with township, municipal, or other local assessors,<sup>6</sup> and 39 state agencies.<sup>7</sup> All of the 24 city boards are equalization and review agencies; but 309 county boards,<sup>8</sup> and 20 state agencies<sup>9</sup> have no authority to alter individual assessments. Thus while there are several thousand equalization agencies in all, only 1100 of them do much outside the field of assessment review, and only 329 are equalization agencies and not review agencies.

<sup>4</sup> In our progress reports, we adopted a somewhat more restricted definition of an equalization agency which excluded any agency whose jurisdiction was confined to a single assessment district.

<sup>5</sup> In Michigan (20) and North Dakota (4).

<sup>6</sup> In Illinois (83), Indiana (92), Iowa (99), Kansas (105), Michigan (83), Minnesota (86), Missouri (24), Nebraska (93), New Jersey (21), New York (56), North Dakota (53), Pennsylvania (60), South Carolina (44), South Dakota (64), Tennessee (3), and Wisconsin (71).

<sup>7</sup> In all states except Connecticut, Delaware, Florida, Maryland, New Mexico, Texas, Vermont, Virginia, and West Virginia.

<sup>8</sup> In Iowa, Michigan, New York, and Wisconsin.

<sup>9</sup> In Arkansas, California, Colorado, Georgia, Idaho, Illinois, Iowa, Maine, Massachusetts, Michigan, Mississippi, Missouri, Nebraska, New Hampshire, New Jersey, New York, North Dakota, Oklahoma, Pennsylvania, and Rhode Island.

## POWERS OF EQUALIZATION AGENCIES

Within the equalization category itself, there are some significant variations in the powers of these agencies. These variations can best be illustrated by means of a simple example, and for this purpose we have conjured up a state which is divided into two counties. Each of the counties is in turn divided into two townships. The counties are the only assessment districts in the state; and the state, the counties, and the townships are the only governmental units levying property taxes. Hypothetical unequalized assessed valuations and full values, divided between real and personal property, are shown for each of these tax districts in Table 7.

TABLE 7. UNEQUALIZED ASSESSMENTS, FULL VALUES, AND ASSESSMENT LEVELS OF REAL AND PERSONAL PROPERTY IN A HYPOTHETICAL STATE HAVING COUNTY ASSESSMENT DISTRICTS  
(ooo omitted)

Tax District	Real Property			Personal Property			All Property		
	Unequalized Assessments	Full Value	Assessment Level	Unequalized Assessments	Full Value	Assessment Level	Unequalized Assessments	Full Value	Assessment Level
County A:									
Township 1A	\$ 5,000	\$10,000	50%	\$2,000	\$ 3,500	57%	\$ 7,000	\$13,500	52%
Township 2A	3,000	6,600	45	500	900	56	3,500	7,500	47
Total	\$ 8,000	\$16,600	48	\$2,500	\$ 4,400	57	\$10,500	\$21,000	50
County B:									
Township 1B	\$ 9,000	\$11,300	80	\$2,500	\$ 2,700	93	\$11,500	\$14,000	82
Township 2B	12,000	14,000	86	4,250	5,000	85	16,250	19,000	86
Total	\$21,000	\$25,300	83	\$6,750	\$ 7,700	88	\$27,750	\$33,000	84
Grand total	\$29,000	\$41,900	69	\$9,250	\$12,100	76	\$38,250	\$54,000	71

### *Changing assessment district valuations*

A state agency in this hypothetical case would have the minimum of power to qualify as an equalization agency if it were authorized to raise or lower the aggregate assessed valuation of one of the two counties. This might be done by multiplying the assessed valuations of County A by 1.68, thereby bringing the assessment level up to 84 per cent to correspond with the level in County B. Within County A, this 68 per cent increase would apply uniformly to both townships and both classes of property. For example, personal

property in Township 1A would be equalized at \$3,360,000 even though this results in an assessment level of 96 per cent, 12 points above the level at which the equalization is directed.

A slight variation of this situation is one in which the state equalization agency can raise or lower the aggregate assessed valuations of either *or both* of the counties. This permits equalization at 100 per cent or at any other level designated by law or selected by the equalization agency. Thus the laws of a good many states direct that the equalization be made at full value, which requires increases in the assessments of both counties, while some equalization boards are required to equalize at the state-wide average assessment level, which would require increases in County A and decreases in County B.

#### *Changing minor tax district valuations*

Much less common than the power described in the preceding paragraphs is the power of a state agency to change the aggregate assessed valuations of certain areas within a county assessment district, say the aggregate assessed valuation of Township 1A. The need for such power might develop out of the practice of dividing the county into subdivisions, assigning different deputy assessors or members of a board of assessors to the several subdivisions, and failing to coordinate their work closely enough to prevent geographical inequalities in the original assessment. Or the county assessor may have a tendency to underassess a class of property which is concentrated in particular areas, say farm lands; and if this tendency is not corrected by local agencies, the state board of equalization can at least mitigate the inequality by raising the aggregate assessment of rural areas in the county.

As a matter of administrative convenience if not of law, the areas within which changes of this sort are ordered by state equalization boards are usually taxing districts, since the grouping of property on the assessment and tax rolls is by taxing districts. For example, the total unequalized assess-

ment of Township 2A is already known to be \$3,500,000, and it can readily be raised to \$3,900,000 so that the assessment level will conform to the 52 per cent level in Township 1A. Each assessment in Township 2A would have to be multiplied by 1.1143 even though this resulted in a 62 per cent assessment level for personal property, unless the state board of equalization enjoyed authority to order changes by classes of property as well as by taxing districts.

### *Changing assessed valuations of classes of property*

This authority to order changes by classes of property is possessed by most state equalization boards. It may or may not be accompanied by the power to make changes by areas within the assessment district. If it is, the board could lower the personal property assessment of Township 1A while leaving the personal property assessment of Township 2A unchanged; if not, any percentage change in the personal property assessments of County A would apply uniformly in both townships.

The tax laws of a few states specify what constitutes a class of property for equalization purposes. Such laws usually divide real estate into at least two classes—rural and urban or land and improvements—and personal property into a half dozen or more classes. Customarily, each category appearing in the assessment roll and in the abstract forwarded to the state board of equalization is considered a separate class when the law is silent on this point.

### *Powers of state equalization agencies*

The 19 states with state equalization agencies and county assessment district patterns are listed in Table 8. The powers of each agency are indicated by entries in the columns on the right. Each has an entry in column 1, indicating the power to change aggregate county assessed valuations, since without this power an agency would not be a board of equalization.<sup>10</sup>

<sup>10</sup> The North Carolina State Board of Assessment, which can exercise this power only on appeal by county commissioners, might almost be said to lack equalization powers.

Less than half of them have the authority to order changes by taxing districts other than counties, but most of them may order changes by classes of property, as indicated respectively by entries in columns 2 and 3. The final column indicates that twelve of these equalization agencies are also review agencies.

TABLE 8. REVIEW AND EQUALIZATION POWERS OF STATE EQUALIZATION AGENCIES IN STATES WITH COUNTY ASSESSMENT DISTRICT PATTERNS, JANUARY 1, 1941

Name of Agency	May Change Unequalized Assessed Valuations:			
	By Assessment Districts (1)	By Minor Tax Districts (2)	By Classes of Property (3)	By Items (4)
Ala. ....Commissioner of Revenue	★	★	★	★
Ariz. ....St. Tax Commission	★	★	★	★
Ark. ... Ark. Corp. Commission	★	★	★	—
Calif. ....St. Bd. of Equalization	★	—	—	— <sup>a</sup>
Colo. ....St. Bd. of Equalization	★	—	★ <sup>b</sup>	— <sup>b</sup>
Ga. ....St. Revenue Commissioner	★	—	★	—
Ida. ....St. Bd. of Equalization	★	—	★	—
Ky. ....Ky. Tax Commission	★	★	★	★
La. ....La. Bd. of Revenue	★	—	★	★
Miss. ....St. Tax Commission	★	—	★	—
Mont. ...Mont. Bd. of Equalization	★	—	★	★
Nev. ....Nev. Tax Commission	★	—	★	★ <sup>c</sup>
N. C. ...St. Bd. of Assessment	★ <sup>c</sup>	★ <sup>c</sup>	—	★ <sup>c</sup>
Ohio ....Bd. of Tax Appeals	★	★	★	★ <sup>c</sup>
Okla. ....St. Bd. of Equalization	★	—	★	—
Ore. ....St. Tax Commission	★	★ <sup>d</sup>	★ <sup>d</sup>	★
Utah ....St. Tax Commission	★	—	★	★
Wash. ...Tax Commission	★	—	— <sup>e</sup>	★ <sup>e</sup>
Wyo. ....St. Bd. of Equalization	★	★	★	★

Source: State statutes.

<sup>a</sup> See *Wells, Fargo and Co. v. State Board of Equalization* (1880) 56 Cal. 194, 198.

<sup>b</sup> See *Union Pacific Railroad Co. v. Board of Commissioners* (1929) 35 Fed. (2d) 785; *Board of Commissioners v. Union Pacific Railroad Co.* (1931) 89 Colo. 110, 299 Pac. 1055.

<sup>c</sup> On appeal.

<sup>d</sup> This seems to be the import of section 110-603 of the *Oregon Compiled Laws*. However, section 110-531 contemplates equalization by county aggregates, and it is this phase of the Tax Commission's work which compares most closely with equalization in other states.

<sup>e</sup> Although section 11222 of Remington's *Revised Statutes* instructs the Tax Commission to "raise and lower the valuation of any class of property in any county . . .," the implication is plain that these changes are hypothetical changes which are not to be made on the assessor's own books. The decision in *State ex rel. Tax Commission v. Redd* (1932) 166 Wash. 132, 6 Pac. (2d) 619, suggests that the Tax Commission cannot constitutionally order changes in the local assessor's books except on appeal of individual assessments.

Table 9 provides substantially the same information concerning the powers of the 20 state equalization agencies in states with township or mixed township and county assessment district patterns. The minimum power for these agencies, as for the agencies listed in Table 8, is that of changing aggregate assessed valuations of counties. The Michigan State Board of Equalization and the New Jersey Tax Commissioner possess no further equalization powers, while the Wisconsin Commissioner of Taxation can initiate no other equalization action. The assumptions are made in Michigan and Wisconsin that the local review board will effect equality as between individuals and classes of property within a local assessment district and that the county board of equalization will effect equality as between assessment districts within a county, leaving to the state board of equalization only the inter-county equalization.

Of course, if there is a state equalization agency but no county agency, as in four of the New England states, the state equalization must reach down below the county level to the assessment districts themselves. There are also 11 agencies listed in Table 9 which, on their own motion, may alter the county equalization by changing the valuations of local assessment districts; and the Wisconsin Commissioner of Taxation may do so on appeal. These 16 agencies are identified in Table 9 by means of an entry in column 2. The power to change the aggregate assessed valuations of township (or equivalent) assessment districts carries with it the power to change the aggregate assessed valuations of counties, since a county is made up of a group of townships; hence an entry in column 2 is always accompanied by an entry in column 1.

The last two columns of Table 9 indicate that authority to equalize by property classes and to review individual assessments is much more commonly conferred upon state equalization agencies in the states with county assessment districts than in those with township districts.



TABLE 9. REVIEW AND EQUALIZATION POWERS OF STATE EQUALIZATION AGENCIES IN STATES WITH TOWNSHIP AND TOWNSHIP-COUNTY ASSESSMENT DISTRICT PATTERNS, JANUARY 1, 1941

Name of Agency	May Change Unequalized		Assessed Valuations:	
	By Counties (1)	By Assessment Districts (2)	By Classes of Property (3)	By Items (4)
Ill. .... Ill. Tax Commission	★	—	★	—
Ind. .... St. Bd. of Tax Comm'rs	★	★	★	★
Iowa .... St. Tax Commission	★	★	★	—
Kan. .... St. Commission of Revenue and Taxation	★	★	★	★
Me. .... St. Bd. of Equalization	★	★	—	—
Mass. ... General Court	★	★	—	—
Mich. ... St. Bd. of Equalization	★	— <sup>a</sup>	—	— <sup>b</sup>
Minn. ... Commissioner of Taxation	★	★	★	★
Mo. .... St. Bd. of Equalization	★	—	★	— <sup>b</sup>
Nebr. ... St. Bd. of Equalization	★	★	★	—
N. H. ... St. Tax Commission	★	★	—	—
N. J. .... St. Tax Commissioner	★	— <sup>c</sup>	—	—
N. Y. .... St. Tax Commission	★	★	—	—
N. D. ... St. Bd. of Equalization	★	★	★	—
Pa. .... Council of Education	★ <sup>d</sup>	★ <sup>d</sup>	—	—
R. I. .... St. Tax Administrator	★	★	—	—
S. C. .... S. C. Tax Commission	★	★	—	★
S. D. .... St. Bd. of Equalization	★	★ <sup>e</sup>	★ <sup>e</sup>	★
Tenn. ... St. Bd. of Equalization	★	★	★	★
Wis. .... Com'r of Taxation	★	★ <sup>f</sup>	—	★ <sup>f</sup>

Source: State statutes.

<sup>a</sup> But the State Tax Commission, whose members constitute a majority of the members of the Board of Equalization, can review and alter the county equalization on appeal.

<sup>b</sup> But the State Tax Commission can review and alter assessed valuations by items on appeal or on its own motion.

<sup>c</sup> The State Board of Tax Appeals can review and alter the county equalization on appeal.

<sup>d</sup> The equalization is by school districts. Generally, but not always, the school districts are coterminous with towns, boroughs, and cities, most of which serve as assessment districts.

<sup>e</sup> See *Common Council v. Dept. of Finance* (1932) 59 S. D. 573, 241 N. W. 731.

<sup>f</sup> On appeal.

### *Powers of county equalization agencies*

A complete digest of the equalization powers of county and other local equalization agencies would be extremely difficult because of the failure of state tax laws to distinguish the equalization and review functions. This confusion is less prevalent, however, among the 16 states with county equalization agencies and township assessment district patterns. The powers of the county agencies in the latter states have been digested in Table 10.

The authority of these county equalization agencies, though apparently broad, is often rather severely restricted by the requirement that increases be accompanied by notice to affected property owners. If these laws are interpreted to mean personal notice, as distinguished from notice by publication, they practically preclude equalization proceedings except those which are designed to reduce all assessment districts or property classes to the level of the lowest district or class. This in turn is sometimes prohibited by laws denying the board of equalization the right to reduce the aggregate assessed valuation of the county below the aggregate original assessed valuation.

TABLE 10. REVIEW AND EQUALIZATION POWERS OF EQUALIZATION AGENCIES OF COUNTIES WITH TOWNSHIP ASSESSMENT DISTRICT PATTERNS, JANUARY 1, 1941

Name of Agency	May Change Unequalized Assessed Valuations:		
	By Assessment Districts	By Classes of Property	By Items
Ill. ....County Bd. of Review	★ <sup>a</sup>	★ <sup>a</sup>	★ <sup>b</sup>
Ind. ....County Bd. of Review	★	★	★ <sup>b</sup>
Iowa ....County Bd. of Review	★	★	—
Kan. ....County Bd. of Equalization	★	★	★ <sup>b</sup>
Mich. ...County Bd. of Supervisors	★	—	—
Minn. ...County Bd. of Equalization	★	★	★ <sup>b</sup>
Mo. ....County Bd. of Equalization	★ <sup>b</sup>	— <sup>c</sup>	★ <sup>b</sup>
Nebr. ...County Bd. of Equalization	★	★	★ <sup>b</sup>
N. J. ....County Bd. of Taxation	★ <sup>c</sup>	—	★ <sup>b</sup>
N. Y. ....County Bd. of Supervisors or Com'rs of Equalization	★	—	—
N. D. ...Bd. of County Commissioners	★	★	★ <sup>d</sup>
Pa. ....County Bd. of Revision	★ <sup>b</sup>	★ <sup>b</sup>	★ <sup>b</sup>
S. C. ....County Bd. of Equalization	★ <sup>b</sup>	★ <sup>b</sup>	★ <sup>b</sup>
S. D. ....County Bd. of Equalization	★	★	★ <sup>b</sup>
Tenn. ...County Bd. of Equalization	★	★	★ <sup>b</sup>
Wis. ....County Bd. of Supervisors	★	—	—

Source: State statutes.

<sup>a</sup> In case of an increase, at least fifty of the property owners affected must be personally notified.

<sup>b</sup> In case of an increase, personal notice must apparently be given to each property owner affected.

<sup>c</sup> An equalization table, based entirely on real property assessment ratios, is to be made annually and used in the imposition of county and state taxes and the distribution of moneys.

<sup>d</sup> On appeal.

<sup>e</sup> See *First Trust Co. v. Wells* (1929) 324 Mo. 306, 23 S. W. (2d) 108.

## COMPOSITION OF EQUALIZATION AGENCIES

The composition of administrative review agencies has already been described in some detail in a preceding chapter,<sup>11</sup> and there is no need to repeat the description for the many review boards which also serve as equalization boards. The composition of local and state equalization boards which do not enjoy powers of assessment review are set forth in Tables 28 and 29 in the Appendix. The local boards described in Table 28 are comprised of the county boards of supervisors in all but ten counties; while a plurality of the state agencies described in Table 29 are the heads of state tax departments.

The ten counties excepted from the foregoing generalization are all in New York. As the result of repeated and severe criticisms by legislative committees of the equalization work of county boards of supervisors, New York counties have been authorized to establish bi- or tripartisan equalization boards composed of two residents who are not supervisors and one nonresident who pays no taxes in the county but resides in the same judicial district. Eight counties have availed themselves of this option.<sup>12</sup> In addition, Erie and Westchester counties, under authority of special acts, have established somewhat similar boards of two and five members, respectively.

State equalization agencies which do not have assessment review powers conform to no single pattern. As stated above, the heads of state tax departments serve in this capacity in a plurality of cases, but the number falls just short of a majority. In another common pattern, a number of state officers, most of whom are elected, serve *ex officio* on the state board of equalization. Governors, state tax commissioners, state auditors, and state treasurers are most commonly found on such boards; but secretaries of state, attorneys general, and heads of the department of agriculture are members in

<sup>11</sup> Pp. 245-47.

<sup>12</sup> Letter from Harold R. Enslow, formerly assistant director of the Bureau of Local Assessments, New York State Department of Taxation and Finance, dated Jan. 3, 1940.

several states. This second type of organization is essentially a heritage from the days in which the state government played a minor role in the administration of property taxes and delegated such duties as it had to regular state officers joined together for a few days each year in ex-officio assessment, review, and equalization boards. It has persisted in some states largely because it is prescribed by a state constitution which is not readily amendable, and in others because it is believed that the equalization function should be discharged by a multiple-headed agency but that the state tax department should be headed by a single administrator.

Of the eight states which have created state boards of tax appeals,<sup>13</sup> only Louisiana and Ohio have placed the equalization function in their hands. However, three other states<sup>14</sup> have authorized their boards of tax appeals to hear appeals from state equalization orders, and the New Jersey Board of Tax Appeals can also hear appeals from county equalizations.

Massachusetts and Pennsylvania have unique equalization agencies.<sup>15</sup> In the former state, the legislature makes the equalization on the basis of a report submitted by the Commissioner of Corporations and Taxation; and in the latter the Council of Education equalizes on the basis of reports from local school officials. The Massachusetts practice of legislative equalization was not an uncommon one when it was adopted a century and a half ago, but has since practically disappeared. Equalization by educational authorities in Pennsylvania, though superficially attributable to the fact that it is intended only to implement an educational grant to local governments, reflects a long-standing resistance to anything which savors of assessment supervision by the Department of Revenue.

Three is both the minimum and the typical number of

<sup>13</sup> See p. 247.

<sup>14</sup> Minnesota, New Jersey, and South Carolina. Georgia was removed from this group by 1941 legislation.

<sup>15</sup> They are also distinctive, though not unique, in that their equalization is biennial rather than annual. Maine and New Hampshire are the only other states with the biennial schedule. The Massachusetts equalization was formerly quadrennial, but was changed by 1941 legislation.

members on local boards of equalization. At the upper end of the range is the Wayne County, Michigan, board, with a membership of 152. State equalization agencies have an even larger membership range if the Massachusetts legislature, with 280 members, is included in the list. The state equalization in six states<sup>16</sup> is made by tax departments headed by single administrators, but the majority of states are equalized by boards of three and five. Altogether, there are over 5000 persons serving on boards of equalization in addition to those serving on boards of equalization and review.

#### APPEALS FROM EQUALIZATION ORDERS

The decisions of most local boards of equalization and review may be appealed to the courts or to superior administrative tribunals in the manner described in Chapters VII and VIII, apparently without distinction between equalization orders and orders pertaining to individual assessments. It is somewhat unusual, however, to give the courts jurisdiction over appeals from decisions of fact made by an equalization agency which has no powers of assessment review. Thus, out of the four states with local boards of this type, only Iowa provides for court appeals; and only in Oklahoma and North Dakota may appeals be taken to the courts on decisions of a *state* board of equalization which does not have review powers.<sup>17</sup> Of course the courts are available for the settlement of questions of law in all states.

Appeal to a superior administrative tribunal is typically available to those aggrieved by the decision of a local equalization board and is becoming increasingly common on the state level. Ordinarily, it is the state tax department which hears appeals from local boards and the board of tax appeals, if there is such, which hears appeals from the state equalization agency. Thus in Michigan, New York, and Wisconsin, to mention only the states in which the equalization process is

<sup>16</sup> Alabama, Georgia, Minnesota, New Jersey, Rhode Island, and Wisconsin.

<sup>17</sup> The North Dakota provision was enacted in 1941.

clearly distinguished from the review process, the state tax department hears appeals from county boards; and in Minnesota, New Jersey, and South Carolina the board of tax appeals hears complaints against the state equalization. There are at least six other states<sup>18</sup> in which the only statutory appeal from a state equalization order is to the state equalization agency itself, and a still larger number of states in which there is no statutory appeal at all.

The United States Supreme Court has held that equalization orders are none the less valid for having been issued without notice and without giving interested parties an opportunity to be heard.<sup>19</sup> "Where a rule of conduct applies to more than a few people," the opinion states, "it is impracticable that everyone should have a direct voice in its adoption. . . . Their rights are protected in the only way that they can be in a complex society, by their power, immediate or remote, over those who make the rule." Here is judicial recognition of the fundamental distinction between assessment review and assessment equalization.

#### EQUALIZATION METHODS

Little has been written on the methods by which public agencies attempt to equalize assessed valuations, and a report on organization and personnel is hardly the place to remedy this deficiency. However, organization and personnel policies must be formulated in the light of administrative practice, and it therefore seems appropriate to give brief attention to this subject. There are two phases of equalization practice that will be examined: (1) the process of finding assessment levels; (2) the process of carrying these findings into effect through the medium of equalization orders.

##### *Finding the assessment level*

The objective of the first phase of equalization practice is

<sup>18</sup> Arkansas, Indiana, Iowa, Mississippi, Montana, and Nebraska.

<sup>19</sup> *Bimetallic Investment Co. v. Colorado* (1915) 239 U. S. 441.

to find the average ratio of assessed to true value for a group of taxable properties. The particular group of properties for which such an average is sought may be all of those having a tax situs within a certain area, or it may be all properties of a certain class having a tax situs within a certain area.

Probably the majority of equalization agencies make what is best described as an "impressionistic" equalization. Members of the equalization board make occasional and more or less casual observations concerning assessment levels, most of which are based on hearsay or on informal complaints of interested parties. They hold a hearing or two and listen to the testimony of biased and frequently poorly informed persons. Representations are made, and political pressure is brought to bear, by legislative and other representatives of the various political subdivisions whose assessments are being equalized. And for lack of anything better, the previous year's equalization ratios are given great weight.<sup>20</sup>

The procedure just described can barely qualify as an equalization method. The results in any particular instance may conceivably be good, but the probability is almost as great that they will be bad or indifferent. Thus a study in Kentucky revealed that counties which had been assessed *below* the state-wide average assessment ratio were not much more likely to be increased by the state board of equalization some years ago than were counties which had been assessed *above*

<sup>20</sup> It should be said that there is considerable virtue in giving some weight to the equalization ratios of the previous year, even though they are known to have been arrived at by a method as crude as that just described. For one thing, it is usually politically unwise to violently disrupt the status quo. Then there are the obvious dangers of sudden increases or decreases in powers to levy taxes and incur indebtedness in the event these powers are restricted by equalized assessed valuations. And, finally, although the total amount of taxes misplaced is minimized by equating the average assessment ratios of all assessment districts in one fell swoop, the taxes which are misplaced even after equalization tend to be concentrated on those persons whose properties are relatively overassessed in districts with low average assessment ratios. When these low average assessment ratios are raised by means of equalization orders, cases of relative overassessment become more conspicuous and tend to be corrected in subsequent assessments. Hence a gradual approach to complete equalization of average assessment ratios, where disparities in the past have been great, is sometimes preferable to immediate equalization.

the state-wide average.<sup>21</sup> Any sustained success in equalization activities can come only from the adoption of objective methods. The various methods which might reasonably be so described may be classified into two groups: (1) those in which the assessment level is determined by a sampling of the taxable properties within a district or class; (2) those in which the assessment level is determined by reappraisal of all taxable property within a district or class.

Equalization by the sampling process is widely approved and is used by most of the equalization agencies of good repute. The essence of the process is to secure appraisals of certain properties, compute the average ratio of assessed to appraised value for these properties, and then proceed on the assumption that the average assessment level so derived is the average for all other properties of the class sampled. The appraisals usually employed are actual bona fide sales prices. The sales data are collected by employees of the equalization agency or by local officials.<sup>22</sup> Transfers which are thought not to be indicative of value are removed from the sample. The remaining transfers for a single assessment district are segregated into as many property classes (and/or minor areas within the assessment district) as is feasible in view of the size of the sample and the adequacy of the assessment records, and an average assessment ratio is computed for each class. Then each such ratio is divided into the total unequalized assessed valuation of that class of property (and/or area) to obtain the estimated true value of the property.

<sup>21</sup> David H. McKinney, *Some Aspects of the Classified Property Tax in Kentucky*, 1936 (unpublished doctor's thesis, University of Kentucky), p. 151. Specifically, it is shown that in sample years between 1900 and 1925 nearly one-third of the counties whose farm real estate assessments were increased by the central agency were already above the median ratio and almost one-fifth were above the third quartile. If the equalization ratios had been drawn out of a hat, presumably not many more of the overassessed counties would have drawn increases. See also Lutz' highly revealing descriptions of state equalization processes a generation ago in *The State Tax Commission*, Harvard University Press, Cambridge, 1918.

<sup>22</sup> County clerks in Kentucky, Missouri, and Wyoming, and county boards of equalization in Tennessee, are required by law to report sales data for the use of their state boards of equalization.



Most observers believe that the method of equalization just described is the best one yet devised and recommend that all equalization agencies rely chiefly upon it. Others hold that it is deficient in certain respects.<sup>23</sup> The critics contend (1) that if sales are segregated into several categories, each representing a different type of real property or a different area within the assessment district, the number of sales in any single category may be too small to serve as a good sample, and (2) that if sales are not segregated the sample may be unrepresentative of the whole because of concentrations of sales in a few classes of property, in a certain price range, or in certain areas, such as resort properties along a lake front or cheap lots in a new subdivision.

Any particular collection of sales data can be tested for these deficiencies by statistical processes. Where the deficiencies are substantial, the sample can be enlarged by adding appraisals of unsold properties to the sales data, as has been done in Wisconsin. The subjects of these appraisals can, of course, be selected with the express purpose of supplementing sales data in those categories where such data provide an inadequate sample. Thus the technique is adaptable to the scientific sampling methods about which we have heard so much in recent years,<sup>24</sup> but the difficulty of securing good appraisals of unsold properties has discouraged its use in all but a few states.<sup>25</sup>

The second objective method of determining the assessment level may be identified as a "mass appraisal" to distinguish it from the "sample appraisal" just described. This

<sup>23</sup> Charles Rosa, *The Wisconsin Real Estate Sales Method of Equalization*, Wisconsin Tax Commission, 1925; Roy Blough, "Recent Developments in Methods of Real Estate Tax Equalization in Wisconsin," *The Journal of Land and Public Utility Economics* (1934) v. 10, pp. 137-49.

<sup>24</sup> See A. N. Nybrotten, "Graphic Analysis of Tax Assessment and Equalization Problems," *The Journal of Land and Public Utility Economics* (1939) v. 15, pp. 324-32.

<sup>25</sup> Cornick has made some excellent suggestions for securing these appraisals in a memorandum prepared by the Institute of Public Administration, "Assessment and Equalization of Real Property in New York," pp. 40-44, published as Memorandum No. 3, *Report of the New York State Commission for the Revision of the Tax Laws*, 1932.

method has two principal manifestations in actual practice.

The first of these was developed a number of years ago by the Wisconsin Tax Commission and was called a "mass assessment."<sup>26</sup> This was simply a hasty reappraisal of a whole local assessment district by a supervisor of assessments. The Wayne County, Michigan, equalization for the past few years has also been based to an increasing extent upon complete reappraisals of local assessment districts, but in this instance the reappraisals have been made much more carefully and represent a cooperative undertaking of the Wayne County Bureau of Taxation and the local assessors.

But the second and more familiar manifestation of equalization by mass appraisals is confined to particular classes of so-called "enumerated" property—property which the assessor lists by quantity as well as by value. The assessor's enumeration of the property is usually accepted as accurate, and the number is multiplied by an estimated average value per unit to get the estimated true value of the class of property in question. For example, if a county assessor lists 100,000 sheep at an average value of \$7.50 a head when the state-wide average for sheep is \$10 a head, this particular class of property in this particular county might be equalized at \$1,000,000, or 133 per cent of the unequalized assessment.

### *Equalization orders*

Once the average assessment level has been ascertained for a group of properties, the equalization agency must issue appropriate orders to give effect to its findings. These orders usually take one of two forms.<sup>27</sup>

The most obvious of equalization orders directs the local assessor or some other appropriate official to increase or decrease the assessed valuation of each property in the group by

<sup>26</sup> Roy Blough, *op. cit.*, pp. 145-46.

<sup>27</sup> A third form is so unusual that mention of it is confined to this footnote. The Mississippi Tax Commission, acting as a board of equalization, may order an increase (or decrease) in the aggregate assessment of a county or of a class of property within a county, and it is then up to the county board of equalization to allocate the increase to particular properties in such manner as it sees fit.

a uniform percentage, the exact percentage depending upon the assessment level found by the equalization agency and the level at which it is decided to equalize. These equalized assessed valuations thereafter serve all of the purposes intended to be served by the original assessment, and the original assessed valuations are of no further use. This type of order is typically used in states which impose a state property tax and which equalize by classes of property, for example, Iowa, Kansas, Kentucky, Minnesota, and North Dakota.

The second type of equalization order, though usually easier to comply with, is more difficult to describe. The order allows individual assessed valuations to stand but makes certain hypothetical changes in *aggregate* assessed valuations. For example, if the purpose of the equalization is to provide a proper base on which to spread a state property tax, the equalization agency first estimates the *full* value of all taxable property in the state. This it does by dividing the aggregate *assessed* value of each group of properties in the state by the assessment ratio found for that group (to get the full value of each group of properties) and adding all of the quotients. The percentage share of the total state tax levy which is to be borne by each group of properties is then found by dividing the *full* value of the group by the *full* value of all taxable property in the state. From this figure, the number of dollars of state tax to be borne by each group of properties is computed. It is then necessary only to divide this number by the total *assessed* value of a group of properties to find the required state tax rate for these properties. This rate will, of course, be just twice as high for a group of properties assessed at 50 per cent as for a group assessed at 100 per cent. The equalization order, in this case, is directed to the official whose responsibility it is to extend state taxes on the tax rolls.

When the purpose of the equalization order is to remove inequalities between state-assessed properties and locally assessed properties, it is even simpler to avoid changes in local

assessments. The equalization agency determines the assessment level for each of the taxing districts which is to levy taxes upon the state-assessed property.<sup>28</sup> Then it orders the state assessment agency to translate each of its assessments to the local level before extending local taxes against them or certifying them to local officials for tax extension. Since there are generally only a few items of state-assessed property, the clerical task of changing them to conform to the local assessment level is far less than that involved in changing local assessments to conform to the state assessment level.

Equalization orders which involve no changes in local assessments are typically found in states which do not impose a state property tax or which impose such a tax after equalization by assessment districts and not by classes of property, including Illinois, Maine, Massachusetts, Michigan, New Hampshire, New York, Oregon, Pennsylvania, Rhode Island, Washington, and Wisconsin. It would not be impossible to use the same procedure elsewhere, although it would require that the state tax rate be varied not only from one tax district to another but also, at times, from one class of property to another within a single tax district. Apparently this has been thought to violate constitutional provisions for uniformity in tax rates (which it probably does not) or to introduce complications in tax extension which more than offset the advantage of leaving assessed valuations unchanged.

There is a characteristic difference in the vigor of the equalization process between states using the two different types of equalization orders. An order which requires the changing of a large number of individual assessed valuations is issued infrequently. An examination of the reports of equalization agencies in states using this type of order reveals that the vast majority of assessments are left unchanged, which is proper only in the event that the vast majority of original assessments are made at a uniform percentage of full value.

<sup>28</sup> It is usually assumed that this level is the same for all taxing districts within a single assessment district.

But in states using the second type of order, there are likely to be at least half as many different equalization ratios as there are counties. Thus the 1939 assessment levels in the 36 Oregon counties were found by the State Tax Commission to range from 45 per cent to 76 per cent of full value. The largest number of counties for which any single assessment level was found was three, and a total of 22 different assessment levels were identified. The 62 New York counties were recently found to have 37 different assessment levels ranging from 41 to 99, with a maximum of five counties on any single level. In the same year, the 102 Illinois counties were found to have 38 different assessment levels, ranging from 25 to 75, with a maximum of six counties on any one level.

### RECOMMENDATIONS

***1. The need for local equalization agencies should be removed by the enlargement of local assessment districts, by functionalization and close coordination of the work of deputy assessors, and by an expansion of the activities of state equalization agencies.***

Local equalization boards may be classified into two groups: (1) those having jurisdiction over a single local assessment district and (2) those which operate on the county level while the assessment function is conducted on the township level. A number of assessment districts, including some of the largest and most important in the United States, do not have equalization agencies of the first type; and boards of review and equalization which are coterminous with other local assessment districts seldom extend their activities beyond the review function. This is as it should be. With even moderately good original assessment, equalization orders by a board which has a jurisdiction coterminous with that of the assessor are not likely to contribute to an orderly and equitable taxing process.

The need for a board of equalization with jurisdiction over

a single assessment district is most likely to result from geographical division of the work of the assessment department, with a resident deputy assessor or assessment board member operating over long periods of time within each of several portions of the assessment district. But this need is better satisfied by a functional reorganization of the assessment department than by giving an independent agency equalization powers.<sup>29</sup>

The need for county equalization agencies where the township assessment district pattern prevails could not be removed by changes in the internal organization of assessment offices, even supposing that township assessment offices were large enough to have an internal organization. Yet the achievements of such agencies, with a few notable exceptions, are far from creditable. Consequently, it is proposed that one of two courses be taken. Preferably, there should be a change in the pattern of primary assessment districts. This might be effected simply by transferring the original assessment function from townships and municipalities to counties. Or the larger cities might be separated from their counties and given independent status, with original assessment by these cities as well as by the counties. Alternatively, where an enlargement of assessment districts is not feasible or where a solution to the assessment district pattern is sought in the assignment of rural areas to county assessment agencies and urban areas to city assessment agencies without completely separating cities from their counties, it is proposed that the state equalization go below the county level to the assessment districts themselves. This situation already exists in the New England states and in New York State; while the all but universal acceptance by Wisconsin county boards of the recommendations of supervisors of assessments has produced there substantially the results sought by our recommendation.

<sup>29</sup> See pp. 138-39.

**2. *A state equalization agency should be maintained in at least those states which impose taxes, share taxes, or make grants-in-aid on the basis of local assessed valuations, or in which some property is state-assessed but is taxed at local rates or at an average of local rates.***

Our second recommendation, on the basis of present practices, calls for the creation of state equalization agencies in a majority of states now lacking them and their maintenance in all states now having them. It is true that some agencies which would be continued under this recommendation employ their powers sparingly or not at all. But the very existence of the power is doubtless productive of some good. It is perhaps even true that some state equalization agencies occasionally exercise their powers to increase rather than reduce inequalities. But the work of the agencies of other states demonstrates that this is neither necessary nor probable.

No doubt every state would be benefited in some degree by state equalization. It tends, as a rule, to force assessed valuations closer to full value, which in turn tends to expose cases of overassessment for correction in subsequent years. There are, of course, some states in which the law requires equalization at the average assessment level for the state, in which case there is as much of a tendency to lower assessment levels as to raise them; but the law is here at fault and not equalization, as such. There are also some cases in which equalization is considered an acceptable substitute for supervision, which it is not; but such cases are not of sufficient frequency to provide a strong argument against equalization.

It is nevertheless evident that some states have greater need for equalization than others. This greater need may arise because of a greater variety of purposes to be served by equalization or because of a greater need for the service of a single purpose. For example, a state which levies a state property tax and also taxes public utilities at local rates on the basis of state assessments has greater need for a state equalization agency, other things being equal, than a state which levies a

state property tax but taxes public utilities on gross earnings. And a state which levies a state tax of 10 mills tends to have more need for such an agency than a state levying a 1-mill tax.

It is possible to conceive of a point at which the benefits to be derived from state equalization are just offset by the expense of maintaining an equalization agency. Practically, however, it would be almost impossible to find the point of balance, and particularly so when equalization served a variety of purposes. Rather than search for this point or attempt to justify the lack of equalization by unsupported assertions that equalization is worth less than it costs, we believe that those states which are unwilling to support adequate equalization should remove the principal conditions creating a need for it.

There are various means of removing each of these conditions. The state property tax can be repealed; it can be spread according to tax collections instead of assessments as has been done for twenty years in Connecticut; or the state can assess such property as is subject to state tax as in Pennsylvania. State-collected taxes which are locally shared on an assessed valuation basis can be taken over by the state as compensation for abandoning a state property tax, or they can be shared on some other basis, such as population, school attendance, or automobile registrations. State-assessed property can be taxed at a rate which is independent of local rates, as are those public utilities in Connecticut, Minnesota, and elsewhere which are taxed on gross earnings in lieu of general property taxes. It is not our purpose to recommend any of these means of abolishing the need for equalization agencies. Some of them have merit, others do not. Our only purpose is to recommend a consistent policy of supporting an equalization agency where it is needed, and doing away with the need if such support is not forthcoming.

No mention of tax rate or debt limitations is made in the above recommendation, although their implementation has been listed among the purposes of equalization. The levying of taxes and the incurring of indebtedness by local govern-



ments are matters in which the state government is only mildly concerned, and we are not certain that a state equalization agency whose only function was to enforce such limitations would prove particularly effective. However, it is possible that the existence of tax rate and debt limits of the usual type should have been included among the conditions demanding equalization and that other methods of restricting the taxing and borrowing powers should be sought where an equalization agency does not exist.

**3. *Members of an equalization agency should be chosen at large by a person or persons representing the whole equalization district and not by representatives of portions of the district.***

Those who perform the equalization function possess the power to benefit persons holding property in one tax district at the expense of the property holders of another district. For this reason, it might appear that each district should have a representative on the board to protect it from injury at the hands of the other districts. However, it is our observation that this sectionalism is apt to bring about infinitely more harm than good. Just as defenders of a cause almost inevitably, and frequently quite unwittingly, become its advocates, so persons designated to defend an assessment district against an unfavorable equalization ratio inevitably and often unwittingly seek to secure for it a more favorable equalization ratio than is deserved. Persons serving the equalization district as a whole are much more apt to be scientific in their methods and objective in their decisions. In this connection, it is interesting to note that New York has gone so far as to require that one of the three county equalization commissioners who may be appointed at the option of the county supervisors shall be a nonresident of the county, presumably with the idea that this person will have a detached viewpoint and will act impartially when the other members disagree.

Especially difficult is the situation in Michigan and South Carolina, whose county equalization boards are composed of

assessors from the several assessment districts within the county.<sup>30</sup> If an assessor deliberately underassesses in order to minimize his district's taxes, as is frequently charged, he can hardly be expected to act impartially as a member of a board whose purpose is to correct the underassessment.

This recommendation has its most obvious application to equalization boards on which each assessment district has one or more representatives selected by the electors of the district or by some official immediately or ultimately responsible to such electors. There is, however, another application. In many instances, the members of an equalization board are chosen at large but are appointed or confirmed by members of a legislative body representing the areas whose assessments the board must equalize. This subjects the equalization board to political pressure which is difficult to resist.

***4. Equalization agencies should be given powers of assessment review unless independent agencies for assessment review and for assessment supervision exist on the same level, in which case the equalization function should be assigned to the supervisory agency.***

We could go on at considerable length to urge the superiority of small equalization boards over large ones (a fact evidenced by the common practice of appointing an equalization committee where there is a large ex-officio membership), of appointed membership over elected membership, of long tenure over short tenure of office, of a board served by a permanent staff over one working with virtually no assistance, and so on; but what we would say would add little to the comments which we have made in support of our recommendations concerning the organization and staffing of boards of *review*.<sup>31</sup> Our fourth recommendation incorporates all of these comments "by reference."

<sup>30</sup> A similar situation existed on the state level in Nevada prior to 1933, when the State Board of Equalization was composed of the members of the State Tax Commission and the 14 county assessors. Note that the practice of placing assessors on boards of *review* is not under discussion.

<sup>31</sup> Pp. 259-61.

There seems to be no conflict between the training, temperament, and attitude of the ideal member of an administrative review board and those of an ideal member of an equalization board. Both need the assistance of a staff, although we consider this more important for the equalization board since it must take the initiative in fact finding whereas a review board must depend largely upon witnesses to furnish it with factual evidence. There seems to be no insuperable conflict in the timing of the review and equalization activities.<sup>32</sup> And the information which comes to the attention of a review board is frequently useful in equalization work, while the equalization process itself occasionally discloses glaring inequalities in original assessments which can be corrected by review but not by equalization. Hence we recommend that most equalization agencies be clothed with powers of review.

We have previously recommended both state and local *review* agencies for most states<sup>33</sup> and now recommend a single *equalization* agency on the state level. If, however, the continuation of local equalization agencies is thought desirable, much will be gained by enlarging the equalization districts to conform to the enlarged administrative review districts previously recommended. Thus there is no good reason why the separation of review and equalization functions still found in a number of states need be continued. It is only by assigning both functions to one agency that we can expect to secure the permanent staff and the qualified board members needed for their proper performance.

As a general rule, the state agency which reviews and equalizes local assessments will also be the state supervisory agency. If, however, the review function has been lodged with a board of tax appeals, as in Louisiana, Massachusetts, New

<sup>32</sup> In the interests of expeditious tax administration, it might be desirable to carry out review and equalization functions simultaneously. However, this is seldom done today and probably could be done no better by separate agencies than by a single agency.

<sup>33</sup> P. 258.

Jersey, and Ohio, while supervisory activities are directed by a tax commissioner, it is our judgment that the equalization function should be assigned to the tax commissioner rather than to the board of tax appeals. A board of tax appeals usually lacks the staff necessary to gather sales data and other objective evidence of assessment levels and is not too well organized for the direction of such a staff if it had one. Consequently, it seems probable that equalization ratios, if determined by such a board, would soon be derived from the testimony of interested parties rather than from facts gathered by an impartial agency. If the board of tax appeals were to be provided with an adequate staff, it is almost a foregone conclusion that the legislature would not also afford an adequate supervisory staff, since most of our standards of adequacy are derived from situations in which the equalization and supervision functions are assigned to a single agency. Supervision will also suffer from lack of incentive if the correction of all inequalities remaining in the assessment rolls after local review is an obligation of a separate state agency. It is therefore our conclusion that poorer equalization and poorer supervision are to be anticipated from the assignment of the equalization function to a state board of tax appeals in preference to a state tax commissioner.

***5. State equalization agencies should be permitted to equalize by minor tax districts and by classes of property as well as by counties.***

The procedure by which an equalization agency exercises its powers is a matter of practice, but the extent of its powers is a matter of organization and is thus within the scope of this committee's assignment. In the preceding recommendation we have dealt with one aspect of these powers by urging that most equalization boards be given review powers. The present recommendation calls for an expansion of equalization powers themselves in states where equalization by minor tax districts and by classes of property is not now permitted. (See Tables 8 and 9, pages 298 and 300.)

It might be thought that agencies exercising *review* powers, especially those which may review on their own initiative as well as on appeal, need no further authority to equalize. Such an agency can change any single assessed valuation; does this not carry with it the power to change any group of assessed valuations? In a very practical sense it does not. For review orders *increasing* assessed valuations require individual notice and opportunity for hearing, and these limitations make it little short of impossible for a review agency, as such, to perform equalization functions except by *reducing* assessed valuations. Equalization solely by means of orders reducing assessed valuations is possible but undesirable; hence there is need for a specific grant of equalization powers to a review agency which is intended to serve also as an equalization agency.

Just how broad this grant of equalization powers should be is the question involved in the present recommendation. There are some who believe that the local assessor and the local review board should have complete responsibility for equality *within* the assessment district and that the state equalization board should have the single duty of eliminating inequalities *between* districts. This has the virtue of concentrating on local officials the responsibility for inequalities in any one assessment roll and reducing dependence upon a state agency which can, at best, only mitigate the evils of improper original assessment. On the other hand, it is urged that property owners are more adequately protected when the state equalization agency is permitted to issue orders which affect the distribution of taxes within as well as among assessment districts. It is doubtful whether the concentration of responsibility on local officials has been directly responsible for much improvement in original assessments, whereas there is good reason to believe that equalization by minor tax districts and property classes, despite occasional abuses by incompetent equalization boards, has contributed in some measure to a more equitable distribution of taxes.

**6. Equalization agencies should be given the option of ordering changes in individual assessed valuations or in tax rates and distribution ratios.**

Our final recommendation contemplates a further expansion of the powers of most equalization boards by permitting them to put their findings into effect by means either of orders requiring the changing of individual assessed valuations or of orders varying the state tax rate or the ratios used in distributing state funds and state assessments. An equalization agency which had the option of issuing either type of order would be able to weigh their respective merits and make its choice in the light of local conditions. It could use the same type of order throughout the state, or both types might be used concurrently.

Each of these types of equalization orders has certain advantages. The first has the advantage of generally forcing individual assessed valuations upward, assuming that the equalization goal is the full statutory assessment level as it should be, and thus exposing cases of overassessment for correction in subsequent assessment rolls. It also permits extensive equalization by classes without complicating the process of tax extension or confusing taxpayers with a variety of state tax rates. And, finally, some states have statutory or constitutional restrictions on tax rates and the incurrence of debt which are adapted to this type of equalization and which would need to be rewritten to fit the second type of order.<sup>34</sup>

There are two principal advantages to the second type of order. First, it minimizes the work required of local officials as the result of an equalization order. With forms properly designed for carrying out such orders, the only phase of local

<sup>34</sup> Michigan's constitutional over-all tax rate limit of 1.5 per cent of assessed valuation is a case in point. If this limitation had been stated in terms of equalized valuations or if the statute governing its administration were to define assessed valuation as the equalized valuation, administration would be greatly simplified without doing violence to the spirit of the law. Washington has a similar over-all limitation expressed in terms of assessed valuation, but the courts have interpreted this to mean equalized valuation as far as state taxes are concerned. See *State ex rel. Showalter v. Cook* (1933) 175 Wash. 364, 27 Pac. (2d) 1075, and *State v. Wiley* (1934) 176 Wash. 641, 30 Pac. (2d) 958.

tax administration affected is the extension of taxes. If the order applies to all classes of property within an assessment district, the work of tax extension is no more difficult than it would have been had there been no equalization order. If the order applies to all real property but not to personal property, the work is the same provided taxes on real property and personal property are regularly computed and extended separately. If the order applies to a minor tax district within the assessment district, say a school district, and not elsewhere, the work is the same because the taxes for that district must be extended separately anyway. It is only when the order applies to one class of real property and not to others or to one class of personalty and not to others that tax extension work is increased in an amount approximately equal to the work which is involved in changing assessed valuations.

Partially offsetting this beneficial effect on local officials is a slight increase in the work of the state agency certifying state-assessed property to local governments for inclusion in local tax rolls. Each assessment so certified should be arrived at by multiplying the appraised value by an equalization ratio. However, the assessments made by state agencies are usually large in amount and small in number, and this additional labor is a tiny fraction of that involved in the division of each local assessment by the equalization ratio.

The second advantage of equalization orders which change tax rates and distribution ratios rather than individual assessment ratios flows from the first. It is apparent that equalization agencies issue orders with reluctance when to do so imposes additional work upon local officials and additional expense on local governments. The best evidence available indicates that greater equity would obtain, not only in states with particularly competent equalization agencies but also in states with agencies of only average competence, if this reluctance were overcome. Consequently, the second type of order, while reducing the work of equalization, tends to increase the effectiveness of the equalization process.

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## *Chapter X*

### **Assessment Supervision**

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**T**HE ADOPTION of all, or even a large part, of the program set forth in the preceding chapters would greatly reduce the need for supervision of local assessors. However, complete adoption is unlikely in any state; and even with complete adoption, there would remain a good many opportunities to improve the original assessment of property taxes through activities which are now loosely classified under the heading of assessment supervision.

"Supervision," according to one lexicographer, is "the authority to oversee and direct." Although this is an adequate description of the law of assessment supervision, it bears little resemblance to the practice of assessment supervision. Most supervisors in this field have the authority to direct and may enforce their directions by legal procedures. But resort to these procedures is so infrequent that they are little more than a threat in any state and less than that in most. Thus what appear from the statutes to be supervisory powers are usually administered as if they were advisory duties, and what is supervision in law is cooperation and assistance in practice.

#### **SUPERVISION BY LOCAL OFFICERS**

A careful search of the property tax laws would reveal a multitude of local agencies which exercise some controls over assessors. Control may be exercise by legislative bodies through their powers to make appropriations and enact ordinances



and by many chief executives through their powers to appoint and discharge personnel and to issue executive orders. Review and equalization agencies, especially in several of the southern states, have vast authority over the assessment rolls and thus indirectly over the assessor. The county clerk or auditor in several mid-western states has certain preliminary duties on the real estate rolls and is supposed to secure some coordination among township assessors. For practical purposes, however, it seems that local supervisory agencies can be discussed in more restricted terms. A restricted list would include one or more county officials in 398 of the 1104 counties which are divided into minor assessment districts and the finance directors, commissioners of finance, or corresponding officials of several hundred cities.<sup>1</sup>

#### *City finance directors and commissioners*

Many municipalities upon adopting the council-manager form of government have established "finance departments" and assigned the assessment function and several other finance functions to these departments. Sometimes no provision is made for a director of the finance department, in which case it is a department in form but not in substance. In other instances the manager is the director, with the result that the various divisions within the department have a position in the organization hierarchy comparable to that of other departments. But most frequently the finance department is headed by a director of finance who is appointed by the manager or by the city council. In a large city, this director of finance usually supervises several divisions and administers none of them, but in a small city he will normally administer one division and supervise the others.

<sup>1</sup> No attempt has been made to compile a complete list of these cities. Of the 66 primary and overlapping city assessment districts with 1940 populations in excess of 100,000, about one-fourth would be included. Among these would be Camden, Dallas, Des Moines, Duluth, Erie, Flint, Fort Worth, Kansas City (Mo.), Knoxville, Louisville, Miami, Newark, Norfolk, and St. Louis. Among smaller city assessment districts, supervision of assessors seems to be relatively much less common.

The legal relationship between the finance director and the assessor of some cities is not unlike that of an assessor and his chief deputy. The assessor may be required to take an oath of office and to sign the assessment roll, but these may become mere symbols of authority if the finance director chooses to exercise his legal powers with respect to selection of personnel and assignment of duties. However, the independence of the assessor is usually preserved in some degree by providing for his appointment by the manager or the council rather than by the finance director and by giving the assessor and his subordinates protected tenure of office.

In cities having a commission form of government, the commissioner of finance often serves the same function as the director of finance in council-manager cities. In addition, of course, he is a member of the legislative body and is therefore in a better position than the director of finance to make his own selection of the assessor. The remaining members of the commission, each of whom ordinarily has an equal voice in the selection of administrative officers, will normally defer to the finance commissioner in return for similar courtesies on his part with respect to appointments within their departments. Thus the assessor loses much of his independence under the commission form of government. Occasionally, as in San Antonio and several cities in New York, this is carried to a logical extreme by giving the finance commissioner the title of assessor. However, the fact that the commissioner of finance is a member of the legislative body usually precludes active participation in the assessment process.

There are other instances of municipal supervisory agencies, but each is more or less peculiar and generalization is difficult. Of course there is nothing about the mayor-council form of government which makes it unsuited to the sort of assessment supervision commonly found in council-manager cities; it simply happens to be true that in many cities with such a government the assessor is elected and that elected of-

ficers are seldom subject to supervision by other officers of the same governmental unit.<sup>2</sup>

### *County agencies*

County supervisory agencies are found principally in the middle-western states, where the New England influence has been strong enough to preserve the township-municipal assessment district but not strong enough to prevent the development of the county into an important political subdivision. Thus we find such agencies in Illinois, Indiana, Kansas, Nebraska, and Minnesota. They are also found in New Jersey, in two New York counties, and in one Tennessee county.<sup>3</sup>

The powers and duties of these county agencies are not extensive. (See Table 30, page 425.) Generally they are required to assemble all of their assessors for an annual group meeting or to visit them individually. At this time the supervisors are expected to distribute the proper assessment forms, instruct assessors in their work, and perhaps secure agreement upon a schedule of values for livestock or other comparatively well standardized classes of property. They may have the power to make rules and regulations which are binding upon the assessors, but more frequently they do not. When the assessor has completed his work, his supervisor is usually permitted to add omitted property to the rolls and correct errors. Only in Illinois and Nebraska can he change assessed valuations on which he is not in agreement with the assessors, but elsewhere he can recommend such changes to the review board, of which he may be a member.

The scope of the county supervisor's activities may run all

<sup>2</sup> The infrequency of supervision in mayor-council cities is established by a survey conducted by the Municipal Finance Officers Association in January, 1934. A questionnaire which was filled out for 223 cities, usually by the chief finance officer himself, showed 67 municipalities in which the property tax assessment function was said to be under the supervision of the chief finance officer. Twenty-five of these cities had a council-manager form of government, 20 a commission form. In many of the other 22 cities it appears that the chief finance officer performed, rather than supervised, the assessment function.

<sup>3</sup> The North Carolina counties have officers known as tax supervisors, but they have been classified as assessors rather than supervisors. See p. 37.

the way from affording the assessment review board incidental assistance to active direction of the original assessment process. Which, if either, of these extremes is approached depends more upon the supervisor than upon the law. Several examples of supervision so close as to be little short of original assessment are to be found in Kansas, while some county treasurers in Illinois, though clothed with powers exceeding those of Kansas county assessors in some respects, are said to be supervisors of assessments "in name only and not in fact."<sup>4</sup>

The following description of county supervision in Illinois, although not entirely fair to states in which the county official has no function other than the supervision of local assessors, gives a good picture of the variations which occur from one county to another even within a single state:<sup>5</sup>

The usual supervision imposed on the local assessor is only nominal. In the township organization counties of less than 150,000, the county treasurer is required by law to assemble all of his deputies and instruct them as to proper assessment procedures. . . . In some instances these conferences are very effective and in other cases a refractory spirit prevails and little is accomplished. . . . Where the county officer has carefully planned the meeting and given assessment problems sufficient consideration, decorous proceedings prevail and the groundwork for a good assessment is laid. . . .

In contrast to the situation instanced above, the assessors in some counties are virtually without supervision. Instructions may be given merely verbally under conditions approaching a state of uproar. In certain counties of Illinois the treasurer as supervisor is unable to exercise the slightest degree of control over the assessor. Or, again, instances exist where the treasurer has exhibited so little interest that the work is actually performed by some other county official.

It is apparent from this quotation that some county supervisory agencies in Illinois are doing useful work. A similar situation will be found in each of the other states having county supervision. St. Louis County, Minnesota, and West-

<sup>4</sup> Joint Commission on Real Estate Valuation, *A Study of the Assessment Organization and Legislation in its Application to Cook County*, Chicago, 1928, p. 79.

<sup>5</sup> Illinois Tax Commission, *Fifteenth Annual Report, Assessment Year 1933*, p. 315.

chester County, New York, might be cited as specific examples. However, one could also duplicate the Illinois cases of ineffective supervision in all of the states which have relied to any marked degree upon this means of improving the original assessments of township and municipal officers.

### STATE SUPERVISION

There are but two states—Delaware and Pennsylvania—in which there is no semblance of state supervision of local assessors. Connecticut, Florida, Oklahoma, Rhode Island, Texas, Vermont, and Virginia supervisory agencies have relatively limited powers. (See Table 31, page 426.) The remaining 39 states have agencies which are clothed with at least a moderate amount of supervisory authority. However, these 39 agencies expend, in the aggregate, less than half a million dollars a year on this function,<sup>6</sup> from which it may be gathered that few make any serious pretense of exercising all of their powers or discharging all of their statutory duties. In fact, many of them carry on fewer supervisory activities than some of the agencies with relatively limited powers.

The law granting powers and assigning duties to the state tax department in one state is often copied directly from the statutes of another state. This reproductive process has proceeded to a point where there is probably greater uniformity here than in any other portion of the tax laws of the various states. The standard law authorizes or directs the state tax department to engage in the following supervisory activities:

1. Exercising general supervision over the assessment process
2. Advising assessors
3. Calling group meetings of assessors
4. Construing the tax laws
5. Requiring reports on assessment matters
6. Visiting local offices

<sup>6</sup> Estimate based on information provided by 33 state tax departments.

7. Issuing rules and regulations
8. Prescribing forms
9. Enforcing penalties
10. Removing assessors from office
11. Assessing omitted property
12. Reassessing districts or classes of property
13. Reconvening boards of review and equalization

### *General supervision*

The state supervisory agencies of 33 states are directed "to exercise general supervision over the administration of the assessment laws of the state." This must be interpreted as little more than a statement of legislative policy. A state tax department armed with no other authority than this would have little success in imposing its will upon unreceptive local tax officials, but it would be instructed to do what it could within its powers and appropriations. It so happens that the supervisory agencies which have been given the duty of general supervision of the assessment process have, in almost every instance, been given ample enforcement powers.

### *Advising assessors*

Supervision in what is probably its mildest form is prescribed by the laws of 36 states directing their state tax departments to render advice or issue instructions to local tax officials. The typical law makes it a duty of the supervisor "to advise, instruct, and direct" or "to confer with, advise, and instruct" assessors as to their duties under the law. This is in all probability a purely educational measure; even when the stronger word "direct" is used, it is at least doubtful that the courts would support a supervisor who attempted to enforce his orders under such a clause.

Compliance with laws imposing advisory duties upon state tax departments usually takes the form of oral or written replies to direct inquiries. Occasionally, printed instructions

are required by law, as in Massachusetts,<sup>7</sup> Mississippi, North Carolina, and Vermont.<sup>8</sup> Some state tax departments, of which Connecticut's is an outstanding example, publish informative pamphlets from time to time, and about a dozen have adopted a policy of keeping up-to-date manuals in the hands of local assessors.<sup>9</sup>

Employees commonly designated as "field men" or "field supervisors" have proved themselves one of the most effective mediums through which state tax departments have carried out their duties to advise and instruct local assessing officers. Perhaps as many as ten departments have at least one person devoting full time to this type of work and as many more have at least one person dividing his time among assessors, collectors, and other local finance officers.

Field supervisory staffs have been organized along two distinct patterns. In a geographical organization, each supervisor is assigned to a certain area within the state and, with occasional assistance from other employees of the department, performs all of the supervisory work done within that area. This pattern is illustrated by the well-known Wisconsin supervisory system, which a short time ago involved 10 supervisory districts but now involves only 4. It is also found in Arkansas (7 districts), Illinois (8 districts), Indiana (7 districts), Maryland (24 districts),<sup>10</sup> and Massachusetts (4 districts). The Maine statutes include an authorization for the State Tax Assessor to divide the state into not more than 6

<sup>7</sup> The instructions consist of the proceedings of various conferences.

<sup>8</sup> No copy of the instructions required in the last two states has come to our attention.

<sup>9</sup> See National Association of Assessing Officers, *Study Guide for Assessing Officers*, 1938 (2nd ed.), pp. 16-17. The Illinois, Minnesota, and Wisconsin manuals are probably the best of the manuals of general scope. Washington and Oregon have excellent building appraisal manuals.

<sup>10</sup> Unlike the supervisors of other states mentioned in this section, the Maryland supervisors are local employees. They are appointed by the State Tax Commission from a list of candidates submitted by the county commissioners and the mayor of Baltimore; their salaries are paid by the counties and the City of Baltimore at rates fixed by state law; and their chief function (outside the City of Baltimore) is to prepare original assessments for approval by the county commissioners. In Anne Arundel and Harford counties they serve as members of boards of assessors.

supervisory districts, but the law has not yet been carried into full effect for lack of appropriations. A North Dakota law providing for 7 district supervisors has become practically a dead letter as the result of a retrenchment policy.<sup>11</sup>

A second organizational pattern may be designated as "functional." It is best illustrated by the recently established Division of Assessment Standards in the Office of the California State Board of Equalization. This division employs a number of technically trained and experienced persons, each of whom specializes on a particular type of property. Thus there is a specialist on urban land, one on rural land, one on buildings, one on forests, and one on oil properties. The Oregon Tax Commission has followed a somewhat similar plan. One appraiser specializes in industrial properties, another in forest properties and lumber mills, and the other six give principal attention to the more common types of real property.<sup>12</sup>

But most supervisory forces are too small to permit either functional or geographical specialization. Where there are but one, two, or three supervisors in the service, they must be available for all types of work in all parts of the state.

### *Sponsoring assessors' meetings*

Another form which the advisory activities of state tax departments may take is the group meeting of assessors and other tax officials. Ten state tax departments are required to hold such meetings annually, one biennially, six at such times as they may designate. Eight others have specific statutory authority to call group meetings if they see fit, at which attendance is either required by law or encouraged by payment of expenses out of public funds.<sup>13</sup> In addition, the assessors of several states meet at regular intervals at the invitation, or

<sup>11</sup> J. D. Silverherz, *The Assessment of Real Property in the United States*, New York State Tax Commission, Albany, 1936, pp. 148-49.

<sup>12</sup> National Association of Assessing Officers, *Proceedings of the Sixth National Conference on Assessment Administration*, Chicago, p. 49.

<sup>13</sup> See *Assessors' News Letter* (1939) v. 5, pp. 60-63.



with the active assistance, of their state supervisors. These meetings are usually held at the state capitol shortly before the opening of the assessment season and are for the purpose of discussing administrative problems and property values. Where the assessors of the state have an association, the annual business meeting is customarily held in conjunction with the conference.

### *Construing the tax law*

Many of the inquiries directed by assessors to state supervisory agencies call for an interpretation of the law. Unless the question raised is particularly important and controversial, an informal opinion is given by some member of the tax department. Such an opinion lacks the force and authority of one rendered by the state attorney general, the county attorney, or the corporation counsel. There are, however, seven states in which the tax department is specifically authorized or directed to "construe" the tax law, and one in which it is directed to "advise" on all questions involving the construction of the tax laws. In three of these states the department is directed to perform this function with the assistance of the attorney general, and his services are made use of in answering difficult questions elsewhere.

### *Requiring reports*

Up to this point we have been concerned with supervisory activities which are definitely educational in character. Another group of activities may be roughly classified as investigational.

Approximately two-thirds of our state tax departments are empowered to require local assessors, collectors, and other tax officers to report any information needed for the conduct of the department's work. The form as well as the content of the reports may be prescribed by the department. The power is exercised freely in some states, sparingly in others, but is almost never completely neglected. Such reports are used fre-

quently for equalization and general statistical purposes; they are seldom used, however, for the purpose of investigating specific complaints.

### *Visiting local offices*

No great degree of familiarity with the work of local assessors could be acquired by state supervisors whose information was gained entirely by perusing statistical reports, reading occasional letters of inquiry, and attending group meetings. There is the further necessity of observing the assessor's work at close range. To fill this need, most states have authorized or directed the heads of their state tax departments or their representatives to visit each county or each local assessment district periodically or as often as they see fit. Annual visits to each county are required in Alabama, Indiana, Maine, Utah, and Wyoming, biennial visits in Colorado, Minnesota, and Missouri. Of course these and the 18 other states in which visits are authorized at unspecified intervals are not the only ones in which this form of supervision is exercised, since such activities are appropriate to any supervisory agency.

These visits serve a purpose which is partly educational and partly investigational. Advice given orally is often more complete and more to the point than that given in answer to written inquiries, and many questions which would never be raised by letter are settled in the course of the visit. Instruction in the use of forms, in appraisal methods, and in office procedures is given more effectively in private than in group meetings. But as far as the law itself is concerned the emphasis is more often placed on the side of investigation. In Minnesota the proclaimed purpose of the visit is "to inquire into the methods of assessment and taxation and ascertain whether the assessors faithfully discharge their duties," and in Indiana it is to hear complaints concerning the law and collect information concerning its working. In either case the visitor carries away with him knowledge of the actual

operations of the tax administration machinery which is indispensable to the supervisory agency in the formulation of its program and the shaping of its policies.

### *Investigating complaints*

In 27 states, the supervisory agencies are required to investigate complaints that property has escaped assessment or has been fraudulently or improperly assessed and are permitted to make such investigations on their own initiative. This duty is adequately implemented with powers to summon witnesses, take testimony under oath, require taxpayers and tax officials to produce records, and to cause the deposition of witnesses both within and without the state.

Upon concluding that a complaint is justified, the supervisor is customarily directed to institute, or cause to be instituted, such proceedings as will remedy the situation. The law is seldom precise as to the nature of these proceedings, but is frequently replete with such remedies as review of individual assessments, reassessment of one or more classes of property, the addition of omitted property to the rolls, and, in extreme cases, the removal of assessors from office.

### *Issuing rules and regulations*

Quite a large number of state tax departments appear to have authority to issue rules and regulations governing local tax administration. The extent of this authority has seldom been tested in the courts, probably because few such rules and regulations have been issued.<sup>14</sup> Reluctance to exercise this authority arises from a variety of causes, among which may be mentioned uncertainty of the legal force of such regulations, unavailability of simple and direct enforcement methods, and lack of public support.

<sup>14</sup> The Illinois Tax Commission is the only department, as far as we know, which has issued a comprehensive set of rules governing the procedural aspects of local property tax assessment. For a recent compilation of its rules, see "The Revenue Act of 1939 . . .," published by the Commission, August 1939, pp. 187-208.

### *Prescribing forms*

No supervisory function is more universally assigned to state tax departments than that of designing and distributing forms for the use of tax officials. At least 32 state departments may design any and all tax forms, and 13 others may design one or more forms designated by law. In practice even the departments with unlimited powers usually confine themselves to the more common forms, such as the personal declaration and the real and personal property assessment and tax rolls. A few have designed appraisal data forms<sup>15</sup> and prescribed the form of tax maps,<sup>16</sup> but use of these more advanced forms is seldom made compulsory. Most of the state tax administrators who have taken seriously their powers and duties with respect to the prescription of assessment forms have found this one of the most useful of the many supervisory techniques.

In several instances state-wide uniformity of prescribed assessment forms is required by law. Even when not incumbent upon them, state supervisory agencies customarily prescribe a single form for a single purpose and expect it to be used in all assessment districts. This, of course, has the disadvantages of stifling initiative and occasionally forcing the use of forms ill adapted to particular assessment districts, as well as the advantage of facilitating the compilation of statistical data and the performance of equalization duties. What may prove to be a happy compromise was struck by recent laws in Connecticut and Massachusetts, under which departures from the regularly prescribed forms may be permitted by the state tax department.

### *Enforcing penalties*

The state tax department is frequently charged with the duty of directing "proceedings, actions and prosecutions to

<sup>15</sup> For example, Minnesota and Wisconsin.

<sup>16</sup> National Association of Assessing Officers, *Construction and Use of Tax Maps*, 1937, pp. 16-18.

enforce the laws relating to penalties, liabilities and punishment of public officers and officers and agents of corporations for failure or neglect to comply with the laws governing the assessment and taxation of property." It appears, however, that this duty is taken rather lightly in most states. It is common knowledge that statutory penalties for failure to file personal declarations, for swearing to false returns, for accepting unsworn returns, and for neglect of other duties are almost never enforced.

### *Removing assessors from office*

The power of direct removal of local assessors from office has been vested in several state supervisory agencies. The Indiana Tax Board may remove any township or county assessor for incompetence, neglect of duty, misconduct in office, or failure to discharge his duties faithfully and in compliance with law. The Kansas Revenue and Taxation Commission can remove any deputy assessor (the actual assessor) who has been suspended by the county assessor (the supervisor), or any county assessor who has been suspended by the county board, for failure or neglect to discharge his duties properly, no matter to what such failure is due. The New Jersey Tax Commissioner may likewise remove assessors on recommendation of the county supervisory agency, but only for wilful or intentional failure, neglect, or refusal to comply with the tax law. The Nebraska State Board of Equalization may remove any assessor for wilful neglect or refusal to obey the law or the rules, regulations, and instructions of the Board. Most drastic of all are the powers of the Maryland Tax Commission. While all of the other agencies mentioned must afford the assessor a hearing, the Maryland Commission may remove supervisors of assessments and county assessors without hearing and for any cause.

The New Jersey commissioner may, in addition to the action just described, institute removal proceedings on his own motion, as can the supervisory agencies of at least 21 other

states. Charges of official misconduct or neglect of duty must be brought in all but a few instances. Actual removal is effected by order of the governor in Colorado, Louisiana, Michigan, Minnesota, and South Carolina, and by court order elsewhere.

Surveys by Lutz and Silverherz, published respectively in 1918 and 1936, revealed only a few instances in which removal proceedings had been instituted and almost none in which they had been prosecuted to a successful conclusion.<sup>17</sup> The Minnesota Tax Commission forced the resignations of two assessors in 1910 by bringing charges against them, but has not reported on this subject since; the Indiana Board of Tax Commissioners tried without success to remove a township assessor in the early twenties; the Kansas Tax Commission removed such assessors "in only one or two instances"; and several other state supervisors answered the inquiries of these investigators in terms suggesting that there may have been some cases lost in antiquity. Responses to a similar inquiry sent to all states by the National Association of Assessing Officers failed to reveal a single removal case in the decade 1930-1939. On the whole, it seems that it would be an exceptional year in which any one of the 29,000 state-supervised assessors in the United States was removed by, or on complaint of, a state supervisor.

### *Assessing omitted property*

Assessing omitted property is generally considered part of the review process<sup>18</sup> and is perhaps an implied power of any review agency which is permitted to increase individual assessments on its own motion. However, it is listed here and in Table 31 as a supervisory power because some supervisory agencies lacking review powers have certain duties relative to omitted property, and because others exercising review powers are not specifically instructed either to look for omitted prop-

<sup>17</sup> H. L. Lutz, *The State Tax Commission*, Harvard University Press, Cambridge, 1918; J. D. Silverherz, *op. cit.*

<sup>18</sup> See p. 240.

erty or to do anything about it if such property happens to come to their attention.

This is one of the more popular supervisory duties, since omitted property, like sin, has few defenders. Yet it is a duty which is prosecuted with vigor by few state agencies. The usual attitude is that property escaping local assessors is not likely to be uncovered by state officials except at prohibitive expense. This attitude is doubtless quite justifiable as far as it pertains to real property and many types of tangible personalty. However, experience in several states can be cited as evidence that a central agency can, with a relatively small expenditure on field agents, turn up vast quantities of omitted intangibles where such property is taxable. Lutz reports that the transfer of inheritance tax administration to the Massachusetts tax commissioner in 1907 and the appointment of three supervisors of assessments in the following year made it possible to collect, classify, and distribute to local assessors an immense amount of useful information concerning omitted property.<sup>19</sup> Even before this, the Michigan tax commissioners, by the simple expedient of examining the county land records and distributing information to assessors, had increased the listing of mortgages by \$45,000,000 in two years.<sup>20</sup> Turning to more recent years, the Iowa State Board of Assessment and Review reported the collection of at least a million dollars in taxes on intangibles after its first three years of operation,<sup>21</sup> and the Kentucky Revenue Department has collected more than a million dollars from the same source in a single year.<sup>22</sup>

### *Reassessing districts and classes of property*

Reassessment is another supervisory power which is related to the review power—so closely at times as to be indis-

<sup>19</sup> *Op. cit.*, p. 232.

<sup>20</sup> *Ibid.*, p. 321. See also p. 323 for an account of the efforts of this agency to increase assessments by disseminating information on registered vessels, probated estates, and domestic corporations.

<sup>21</sup> *Report*, 1932, p. 10.

<sup>22</sup> Information provided by James W. Martin.

tinguishable from it. Yet it is exercised by some state agencies which clearly do not have review powers and is omitted from the enumerated powers of a few agencies which unquestionably have review powers.

The power to reassess is related to the power to review original assessments in much the same way that the power to equalize is related to the power to review. Both reassessment and equalization relate to mass changes in the assessment roll. Both powers can, as a rule, be invoked without the necessity of individual notice to all whose assessments will be increased, though published notice may be required for both. Both powers can, as a rule, be exercised with respect to all property within an assessment district or to all property of a given class within an assessment district. The principal difference between equalization and reassessment is that the former assumes uniformity within the area or class of property to which the order applies while the latter assumes disparity. Thus an equalization order involves a horizontal adjustment of a group of assessed valuations; a reassessment order involves widespread readjustment of individual assessed valuations.

The clearest conveyance of reassessment powers is found in the laws of Illinois, South Carolina, and South Dakota, all of which say in substance that the state tax department may order a reassessment of all real and personal property, or any class thereof, in any assessment district, when in its judgment such reassessment is necessary or desirable. Confusion of reassessment with review powers is found in the laws of a good many states which permit the state supervisory agency to order or make reassessments of "any or all property." Among the latter states are several<sup>23</sup> in which it appears that there was no intention to impose review duties or powers upon the supervisory agency, yet a literal interpretation of the reassessment laws would certainly permit the revaluation of individual parcels or items of property.

<sup>23</sup> Nebraska, New Hampshire, North Dakota, and West Virginia.



In Idaho, Illinois, Ohio, and South Dakota, the reassessment orders of the state supervisory agency must be carried out by the regularly constituted local assessing officers. In Alabama, Maine, New Hampshire, and New Jersey the order must first be directed to the regular assessing officers,<sup>24</sup> but refusal to carry it out or failure to produce acceptable results gives the state department the right to supersede the local authorities. Elsewhere, reassessment orders can be carried out by the regular assessing officers, by the supervisor's own staff, or by persons specially appointed by the supervisor, at the discretion of the supervisor. The cost of a reassessment is almost always charged against the local assessment district.<sup>25</sup>

Reassessment powers are resorted to only slightly more frequently than powers to remove, or institute proceedings for removal of, local assessors. Outside of Illinois, Michigan, Minnesota, and Wisconsin, they have almost completely atrophied from disuse. Ohio reported one reassessment in the eight-year period 1926 to 1934,<sup>26</sup> South Dakota one in the ten-year period 1924 to 1934.<sup>27</sup> The Kansas commission has ordered a few reassessments in recent years upon complaint of taxpayers.<sup>28</sup> The Arkansas and Colorado commissions reassessed one county each in 1935 and 1936 respectively.<sup>29</sup> But there are several states for which no traces of reassessment orders have been found despite the fact that their tax departments have long been authorized to issue them.

Within the four states excluded from the generalization of the preceding paragraph, a reassessment tradition has been built up over a period of years. The first reassessment order of the Illinois Tax Commission was issued on September 5,

<sup>24</sup> The county board of equalization in Alabama.

<sup>25</sup> The Michigan law provides that when the reassessment "results in a change of more than 15 per cent above or below the aggregate amount approved by the board of review" the expense shall be charged to the assessment district.

<sup>26</sup> J. D. Silverherz, *op. cit.*, p. 104.

<sup>27</sup> *Ibid.*, p. 151.

<sup>28</sup> *Ibid.*, p. 156.

<sup>29</sup> Reply to NAAO questionnaire dated February 20, 1940; *Twenty-Fourth Annual Report of the Colorado State Tax Commission*, 1935, p. 8.

1923, some four years after the authority was granted in this state. By July 10, 1928, when the second order to reassess Cook County was issued, 14 orders, affecting a total of 183 townships, had emanated from the Commission.<sup>30</sup> However, the delay in tax collections resulting from the Cook County reassessment order (owing partly to the fact that the order had to be carried out by the persons in charge of the original assessment) created such a financial crisis that the Commission's reassessment policy changed abruptly. It is now apparent that every effort is being made to avoid the necessity of issuing such orders.<sup>31</sup>

The most vigorous reassessment policy in American history was adopted by the Michigan state tax department soon after its creation. A clear grant of reassessment powers was first given this department in 1911. Between that date and 1926 almost every part of the state was reassessed.<sup>32</sup> In the first three years 25 counties were covered, and by 1916 only 15 counties and that portion of Wayne County outside Detroit remained to be done.<sup>33</sup> The work slowed down somewhat after 1917, and almost ceased in 1921 owing to a greater burden in other branches of the department's work. In the biennium 1925-1926, only 13 townships and cities were reassessed. The number was unreduced eight years later, but has since dropped sharply. Within the last two bienniums for which reports are now available, it appears that genuine reassessments have averaged about two a year.

Although the enthusiasm of no other state tax department has reached these heights, the declining reassessment activity of the Michigan department finds its counterpart in Minne-

<sup>30</sup> Illinois Tax Commission, *Tenth Annual Report, Assessment Year 1928*, pp. 96-102.

<sup>31</sup> *Seventeenth and Eighteenth Annual Reports, Assessment Years 1935 and 1936*, pp. 21-38. See the *Tenth Annual Report*, Ch. VII, for a statement of the earlier policy.

<sup>32</sup> R. Wayne Newton and W. O. Hedrick, *Farm Real Estate Assessment Practices in Michigan*, Agricultural Experiment Station, East Lansing, 1928, p. 36.

<sup>33</sup> Lutz, *op. cit.*, pp. 325-26.

sota and Wisconsin. The Minnesota Tax Commission began to make reassessments in 1909, but very little of this work was done until enactment of a low-rate tax on intangibles in 1911. There followed a period in which intangibles were reassessed in hundreds of districts. Real estate and tangible personalty were reassessed too, but much less widely; for example, in the biennium 1915-1916 real estate was reassessed in 16 districts, tangible personalty in 19 districts, and intangibles in 137 districts. Total reassessments reached a peak of 312 in the biennium 1911-1912 and declined almost constantly in succeeding bienniums. By 1933-1934 they had reached an all-time low of one intangible property and four real estate reassessments. In the biennium 1937-1938, the latest for which a report has been published, real estate was reassessed in one village, tangible personalty in two villages, and intangibles in two villages.

The Wisconsin Tax Commission, beginning with a modest program of 9 reassessments in the biennium 1911-1912, reached a peak of 42 in the biennium 1915-1916. Then in 1917 the law was amended to require that the owners of at least 10 per cent of the taxable property within an assessment district request a reassessment before it could be ordered by the Commission. This percentage was reduced to five in 1919, but it apparently continued to restrict considerably the number of reassessments. Orders issued in the 1920's averaged about five a year, but the trend was downward throughout most of the decade. This trend persisted into the 1930's, during which only seven orders, an average of less than one a year, were issued.

The infrequency of Wisconsin reassessments in recent years is largely due to the development of alternative procedures. Technically speaking, reassessment in a state requiring annual revaluation of taxable property involves the rewriting of an assessment roll already prepared by the regularly constituted assessing officers. In lieu of this the Wisconsin tax department may order supervision of the next

regular assessment, allowing the collection of taxes on the roll against which complaint has been made. When such an order is issued, the department may designate one or more persons to assist the local assessor. These persons enjoy all of the powers of persons making a reassessment, while the local assessor not only works with the department's appointees but also sits with them as a member of a board of assessors in arriving at final assessed valuations. Supervision orders were first authorized in 1929, and between then and the end of 1939 there were 44 petitions for reassessments, 15 of which resulted in supervision orders and only 9 in reassessment orders.

There is still another procedure which has been frequently used to avoid reassessment orders in Wisconsin. The law permits the governing body of an assessment district to declare the existence of an emergency and, with the approval of the Commissioner of Taxation, to employ "expert or additional clerical or other help to aid in making an assessment." The "expert help" so employed, together with the regular assessor, then constitutes a board of assessors. It is obvious that the local governing body may use this statute to override an assessor otherwise beyond its control and that the state tax department, by approving a well selected staff, can often achieve the objectives of a reassessment with less of the animosity and delay in tax collections which a reassessment order generally produces.

The recent policies of the Wisconsin tax department are comparable to those of several other state supervisory agencies. The New Hampshire Tax Commission, armed with much broader authority than has been granted to most other New England supervisory agencies, has long pursued a policy of revaluation in cooperation with local assessors.<sup>34</sup> Even more outstanding are the programs of the Oregon and Utah commissions. In the past decade, the Utah Tax Commission has cooperated with county assessors in the reappraisal of prac-

<sup>34</sup> J. D. Silverherz, *op. cit.*, p. 28.

tically all buildings in the state.<sup>35</sup> The Oregon Tax Commission was recently reported to be operating large and continuing programs in seven counties while making numerous appraisals elsewhere in the state.<sup>36</sup>

### *Reconvening boards of review and equalization*

The supervisory agencies of nine states are empowered to reconvene a local board of review or equalization for the purpose of correcting a situation left uncorrected at the end of the board's regular sessions either for lack of time or for failure to operate effectively.<sup>37</sup> The authority exercised by the state agency over boards sitting in extraordinary session varies widely. The tax commissions of Illinois, Utah, and Washington and the State Board of Equalization of Tennessee may only recommend action and rely upon the pressure of an informed public or threats of more drastic enforcement measures to impose its wishes on an unreceptive local board; but the agencies of the other five states can give enforceable orders.<sup>38</sup>

This power is closely related to the power of reassessment. The authority to reconvene a board and *recommend* action compares with the authority to order local officials to make a reassessment; the authority to reconvene a board and *order* it to make certain changes compares with the authority to make a reassessment. The most definitive difference between the two powers is that the reassessing agency is the board of review or equalization in one instance and the assessor in the other. There is a further difference of degree in the severity of these two enforcement measures. Generally speaking, a

<sup>35</sup> Statement of R. E. Hammond, *Sixth National Conference on Assessment Administration*, p. 48.

<sup>36</sup> Statement of Charles V. Galloway, *ibid.*, p. 50.

<sup>37</sup> This figure does not include Alabama, whose county boards of equalization may be reconvened for the purpose of making a reassessment. See p. 340.

<sup>38</sup> The law conferring this power upon the Washington Tax Commission provides that the county board of equalization shall make such changes as the Commission orders, but the constitutionality of such an order is doubtful in view of the decision in *State ex rel. Tax Commission v. Redd* (1932) 166 Wash. 132, 6 Pac. (2d) 619.

reassessment order is more drastic. It is aimed at the original assessment and contemplates a retracing of the assessor's steps from the very beginning. An order directing a board of review or board of equalization to reconvene, on the other hand, is usually designed to produce the sort of action which such boards are accustomed to take—correction of isolated cases of over- or undervaluation and horizontal changes of all assessed valuations within a given area or class of property.<sup>39</sup> Where specific reassessment powers have not been conferred upon the state tax department, as in Arizona, Iowa, and Utah, the power to order local boards of review to reconvene is a reasonably good substitute.

### *Miscellaneous powers and duties*

Some of the most important supervisory powers are possessed by the agencies of only one or two states. The Ohio Department of Taxation, for example, is potentially the most powerful property tax assessment agency in the country, not primarily because it enjoys several of the powers previously mentioned but because of other aspects of its authority. We have already noted<sup>40</sup> that all taxable personal property in Ohio is directly assessed either by the State Tax Commissioner or by the county auditors acting as his deputies. The department's authority over real estate assessments is also very broad. The Board of Tax Appeals, which is part of the department, must approve all real property exemptions. Furthermore, experts, deputies, clerks, and others who are employed by the counties for the assessment of real estate must be approved by the Board, and it may approve additional compensation allowances for such employees in the event the county auditor

<sup>39</sup> See, for example, the orders issued by the Illinois Tax Commission in 1935 (*Seventeenth and Eighteenth Annual Reports, Assessment Years 1935 and 1936*, p. 26) and by the Iowa State Board of Assessment and Review in 1938 (*State ex rel. Iowa State Board v. Board of Review of the City of Des Moines* (1938) 255 Ia. 855, 283 N. W. 87).

<sup>40</sup> Pp. 90, 100.

(ex-officio assessor) considers the amount allowed by the county commissioners inadequate. Add to this the power of the Tax Commissioner to issue rules and regulations and it is easily seen that there is little in the way of property tax assessment which the Ohio Department of Taxation is precluded from doing if it wants to.

The next most powerful state tax department is probably the Maryland Tax Commission. Most taxable personalty in the state—all that is owned by corporations—is assessed directly by the Commission, and considerable authority is exercised over the rest of the assessment field. The Commission may determine when property is to be reassessed; it is directed to formulate a uniform plan for assessing property; it appoints the chief assessor (supervisor of assessments) of each county; it designates the number of additional assessors who are to be employed, approves their compensation if it exceeds \$5 a day, and may remove them for any cause and at any time.

Alabama and Louisiana should also be mentioned in any enumeration of states having exceptionally powerful state tax departments, although neither state has made appropriations liberal enough to realize anything like the full potentialities of its laws. The departments of both of these states enjoy most of the powers enumerated in the preceding pages. In addition, both are required to review the actual assessment rolls of all local districts, not merely abstracts of such rolls as in most other states; and the Louisiana tax department even receives copies of the property tax declarations of all business concerns. What is much more important, the Alabama Commissioner of Revenue appoints all members of county equalization boards, with the approval of the Governor, from lists of nominees made up by local officials; and the significance of these appointments is magnified by a tendency in this section of the South, and particularly in Alabama, to give the board of review a role in the assessment process which is even more prominent than that of the assessor.

Authority to determine assessment procedures is indirectly conferred upon supervisory agencies in several states and in several ways not mentioned in the preceding sections. The Colorado Tax Commission is instructed "to prescribe a uniform system of procedure in the assessors' offices"; the Virginia Tax Commissioner is directed to prescribe and install uniform systems to be used by officials assessing intangible property; and the Massachusetts Commissioner of Corporations and Taxation is required to notify the chief executives of towns and cities whose assessors fail to comply with certain of his orders respecting the keeping of records and the use of information available in the records of registers of deeds and probate courts or disseminated by the Commissioner himself.

Other miscellaneous powers and duties of state supervisory agencies include the approval of abatements in Colorado, Maine, Minnesota, and North Dakota; the prescription of the legal assessment ratio in Arkansas; the review of certain exemptions in Illinois, West Virginia, and Ohio; the fixing of general reassessment dates in Indiana and Maryland; the approval of tax maps in New Jersey and New York and their preparation if local authorities fail to provide them in California, Indiana, and New Jersey; the adjudication of disputes between counties as to the tax situs of personal property in Idaho, Illinois, Minnesota, Nebraska, North Dakota, and South Dakota; the approval of deputy assessors in Kentucky; and the approval of county assessors' budgets in Florida.

#### RECOMMENDATIONS

**1. *The assessor should be under the general supervision of the chief executive or the executive board of the governmental unit which performs the assessment function.***

Several writers of high repute in the field of public administration and public finance have advocated, at least for municipal governments, an organization in which the assessor



is one of several subordinates of a chief finance officer.<sup>41</sup> The treasurer or tax collector, comptroller or chief accountant, purchasing agent, and budget director, or some combination of such officers, would comprise the other subordinates. The advantages claimed for this type of organization are somewhat as follows:

1. It reduces overtime and short-term employment by facilitating the shifting of employees from one type of work to another to meet peak loads.

2. It results in fuller use of machinery and other mechanical equipment.

3. It expedites the handling of complaints and requests for information by assuring coordination of records and physical proximity of offices engaged in related activities.

4. It permits a shorter interval between the assessment date and the billing and collecting of taxes as the result of more closely coordinated efforts of assessing and collecting departments.

5. It provides better budgetary control of revenues by centralizing responsibility for the various phases of tax administration under one person.

6. It reduces the number of persons with whom the chief executive must deal and helps to keep that number within his "span of control."

7. The finance director serves as a buffer to protect the assessor's office from political spoilsmen and permits the inclusion of the assessor in the classified service if a formal merit system exists.

The opponents of this type of organization are more numerous than vocal. However, the following disadvantages have been urged:

1. To superimpose a high salaried director over a number of regular officers either increases the cost of government or

<sup>41</sup> See, for example, Illinois Tax Commission, *Sixteenth Annual Report, Assessment Year 1934*, p. 196; A. E. Buck, *Municipal Finance*, The Macmillan Co., New York, 1926, p. 15.

reduces the appropriations available for the conduct of one or more of the supervised offices without compensating benefits.

2. If the preceding objection is overcome by putting the director of finance in charge of one of the functions which he would otherwise only supervise, the remaining functions are likely to be the neglected stepchildren of the finance department.

3. The offices of assessor, treasurer, etc., are made less attractive because they carry less responsibility. (This may be overcome by added security of tenure if a formal merit system has been adopted and these offices have been included in the classified service—as they seldom are when there is no director of finance.)

4. It may result in manipulation of the assessment level to meet the demands of the finance officer for a larger (or smaller) debt base—a thing in which an independent assessor usually has little direct interest.

5. It may also result in manipulation of assessments in order to balance the budget without raising (or lowering) the tax rate or in order to render ineffective (or more effective) statutory or constitutional limits on local tax rates. The finance director, in whom responsibility for financial matters is largely concentrated, is certain to be more concerned about tax rates than the assessor.

6. It may discourage the assessment of property on which taxes are hard to collect in order to avoid a poor collection record for which the finance director would have to assume responsibility.

7. The finance director is seldom skilled in the art of property appraisal and may bring poorer, rather than better, procedures into the assessing department if he concerns himself with procedural matters.

In attempting to appraise the merits of these arguments, a questionnaire was sent to 36 assessors who are subordinate to chief finance officers. Eighteen replies were received. The

more significant information contained in them may be summarized as follows:

1. The supervision of 12 chief finance officers was characterized as "principally concerned with coordination of division activities," 3 as "concerned with broad aspects of methods and procedures used in the assessing division," and 1 as "concerned with details of the assessing work." Two assessors did not answer this question.

2. When asked to check certain fields in which their chief finance officers were skilled, 16 assessors replied by checking a total of 21 different skills. Accounting skill was reported for 11 of the 16 finance officers, business skill for 6, engineering skill for 2, and law and contracting for 1 each.

3. Fifteen assessors checked certain advantages which they thought resulted from their subordination to the chief finance officer. Ten said that it "results in fuller use of machinery and other mechanical equipment," 9 that it "centralizes responsibility for the financial affairs of the city," 7 that it "reduces overtime and short-term employment by facilitating the shifting of employees from one type of work to another during rush seasons," 5 that it "permits a shorter interval between the assessment date and the billing and collecting of taxes," and 4 that it "expedites the handling of complaints and requests for information."

4. Only 9 assessors checked disadvantages to subordination. Five reported that it "makes the position of assessor relatively unattractive," 3 that it "reduces the appropriation available for assessing work by reason of the high salary paid the chief finance officer," 3 that it "results in poorer procedures by giving authority to an officer who is unqualified," and 1 that it "gives rise to demands for favors to reward political supporters of an elected chief finance officer."

5. When asked to indicate whether they looked with approval, disapproval, or indifference upon the plan of subordinating the assessor to the chief finance officer, 5 assessors approved, 6 disapproved, 4 expressed indifference, 1 checked

both approval and indifference, and 2 did not respond. Three approvals and three disapprovals (including the return on which indifference was also checked) came from cities with a commission form of government; two approvals, three disapprovals, and three expressions of indifference from cities with a manager form of government.

This questionnaire was followed by a letter of inquiry to a number of managers in cities whose assessors are subordinate to finance directors.<sup>42</sup> From the replies received, it appears that the majority of city managers, or at least the majority of those having experience with it, favor subordination. But it is even more apparent that the managers themselves could have secured many of the advantages claimed for subordination of the assessor to a finance director without the intervention of the finance director. The manager (or any other chief executive of similar authority) with the powers normally and properly reposed in him could readily provide for the use of mechanical equipment by more than one department, for the exchange of personnel between departments, for bringing the offices of assessor and collector next to each other, and for the preparation of reports which would permit the proper budgeting of estimated revenues. Nor would he often have to attend to these matters personally and so tie himself down to a multitude of small managerial tasks. A personnel director, a budget director, and a manager of public buildings could take care of most of the details in a governmental unit large enough to employ such officers, while the chief executive himself would probably not find them unduly burdensome in a small unit, especially if he were provided with one or two administrative assistants. In this connection it is significant that the managers of two such large cities as Fort Worth and Dallas, as well as the small town of Stratford, Connecticut, serve as their own finance directors.

The most obvious conclusion to be drawn from these in-

<sup>42</sup> The committee is indebted to Clarence E. Ridley, Executive Director of the International City Managers' Association, for sponsoring these inquiries.

quiries and from the literature in the field is that centralization of the finance functions under a finance director is almost always preferable to their extreme decentralization under several *elected* finance officers having no common supervision. Another fair conclusion is that it often makes little difference whether an *appointed* assessor is directly supervised by the chief executive of the assessment district or by a finance director who is in turn supervised by the chief executive. The important thing is that there should be coordination of the several activities of a governmental unit—that lines of authority and responsibility should converge upward to the chief executive.<sup>43</sup> Whether the line running from the assessor passes through a director of finance or goes directly to the chief executive seems to us a matter which should be determined locally rather than by general proclamation.

**2. Supervision of township and municipal assessors by county agencies should, as a rule, be abandoned and any need which it may be designed to satisfy removed by enlarging local assessment districts or by expanding the supervisory activities of the state tax department.**

Such observations as have been made of the county supervisory agencies existing in several middle-western states leads us to conclude that they have helped to preserve small assessment districts without, on the whole, contributing substantially to removal of the defects of such districts. They have given a false glow of health to a diseased structure. A case could probably be made for immediate abolition of the supervisory agencies in the hope that such a move would force an enlargement of original assessment districts. However, enlargement might not follow abolition. Consequently, we recommend that the two steps be taken simultaneously.

Where the assessment district pattern cannot be changed for one reason or another, the alternative procedure is to

<sup>43</sup> There are, however, many instances of assessment districts with executive boards rather than chief executives. Without endorsing such an organization the committee takes cognizance of it in the recommendation stated on p. 347.

substitute state supervision for county supervision. Wisconsin, which inaugurated a system of county supervision in 1901, changed to state supervision in 1911 and established an outstanding reputation in subsequent years.<sup>44</sup> While we would prefer to see an enlargement of assessment districts, the Wisconsin example indicates that a vigorous, well supported program of state supervision can go a long way toward compensating for faulty districting. In fact, as our next recommendation states, we believe that some measure of state supervision is needed even though assessment districts are enlarged to an acceptable size.

**3. *The state tax department, or some similar agency, should supervise local assessors whether or not the state imposes a property tax for its own support.***

Review and equalization are totally inadequate substitutes for good original assessment. The vast majority of assessments which are made wrong in the first place will remain wrong however many and diligent the review and equalization agencies created for their correction. It follows that state participation in the assessment process has greater potentialities for good when directed to improvement of original assessments than when directed to subsequent stages in the process.

Where the state government itself bases taxes on local assessed valuations, its responsibility for maintaining equity in the tax base is generally recognized. But where the property tax has ceased to contribute to the support of the state and is used purely for local revenue, it has often been assumed that the state no longer has either the duty or the right of supervision. Thus we find that state supervision is negligible or nonexistent in approximately half of the states which no longer make state levies on locally assessed property.

We cannot agree that responsibility for supervision ceases

<sup>44</sup> Aldro Jenks, "How Wisconsin's Plan of Supervision Works In Practice," *Proceedings of the Sixth National Conference on Assessment Administration*, pp. 18-19.

when the state wholly relinquishes the property tax to local governments. Despite our cherished concepts of home rule, local governments are legally creatures of the state, deriving all of their powers from the state. Among these derived powers is the authority to assess and collect property taxes. Few other sources of revenue have been provided, and none of them has been particularly fruitful. By imposing mandatory expenditures and leaving a wide range of demands upon government unsatisfied, state legislatures have forced local governments to draw heavily upon their one major source of revenue. Having done so, the state cannot escape a responsibility to its citizens to provide the best possible administration of that tax.

There are many who believe that this responsibility should be discharged through actual assumption of the assessment function by the state. We have already indicated some objections to this proposal.<sup>45</sup> State supervision compromises the extreme viewpoints of those who would take the assessment function entirely away from local governments and those who would take it entirely away from state governments. Like most compromises, it completely satisfies neither party to the dispute but affords a technically practical and politically feasible solution to the problem.

Many of the proponents of complete withdrawal of the state from the assessment process are citizens and officials of large cities with resources far exceeding those of other local assessment districts. Such communities are fully able and often willing to provide themselves with competent tax administrators, and they have little to gain from state supervision. But they also have little to lose. State supervisors are seldom invited to assist their assessors, and there is probably no supervisor who would force himself upon such assessors in the absence of outright corruption. Supervision is intended primarily for smaller communities which cannot afford the large and well qualified staffs necessary to handle all of the compli-

<sup>45</sup> Pp. 107-8.

cated problems which are involved in assessing, and such communities should not be deprived of it just because their needs differ from those of a few large cities.

**4. *The state tax department should exercise its supervisory powers principally by interpreting the tax law, disseminating useful information concerning assessment methods and property values, and providing technical assistance on difficult aspects of the assessor's task.***

Many of the supervisory powers mentioned in the preceding pages are almost never used. The only purpose they serve is that of a mild threat against an uncooperative local assessor and a possible last resort in the event of an intolerable local situation.<sup>46</sup> This purpose is probably better served than completely neglected. However, we are convinced that effective supervision must come through educational channels and that state tax departments can be most useful to assessors, and thus indirectly to property taxpayers, by affording them consultation services and technical assistance in the performance of difficult tasks.

Assessors should feel no reluctance to seek or accept advice from a state tax department. By the very nature of their positions, the department heads and their field agents should have an experience which is broader, if not deeper, than that of the local assessing officer. Instead of the occasional opportunities which the assessing officer has to exchange experiences and information with his colleagues in other localities, these state employees perform duties which bring them into frequent contact with tax officials throughout the state and perhaps throughout the country. Furthermore, there are probably some employees in every state tax department who have special training or experience on certain aspects of the assessor's job; they could not do everything which an assessor must do as well as he can, but they can give him valuable assistance on particular aspects of his work.

<sup>46</sup> H. L. Lutz, "The State Tax Commission and the Property Tax," *The Annals* (May 1921) v. 95, p. 279.



The best administrator is not one who knows every detail of the job which he is called upon to do; he is one who can find persons knowing every detail and can so organize their efforts that this knowledge is fully utilized. Seldom is the local assessor favored with a budget large enough to employ such persons even if he were able to locate them. But the state, whose resources embrace the resources of all of its political subdivisions, not only can more easily provide the funds with which to hire them, but can afford to employ them on a continuous basis and shift them from one assessment district to another as demands for their services arise. By utilizing the services of these experts, an assessor can administer his office better than by trying to do all of the work without advice, counsel, or assistance.

***5. Drastic enforcement measures, such as issuance of reassessment orders and institution of proceedings for removal from office, should be employed only on petition of the local assessing officer, the board of review, the chief executive of the assessment district, or a substantial body of taxpayers and after careful investigation by the supervisory agency.***

Not many years ago it was commonly supposed that the power to order reassessments and to remove local officials was indispensable to effective state supervision of property tax assessment. If experience has proved anything at all, it is that mere possession of these drastic powers does not assure good supervision. In many states such powers have never been more than a threat and have lost most of their force as such. It can also safely be said that experience has proved that the possession of such powers is not even essential to good supervision. What state tax departments need above all else is an appropriation which will permit them to assist local officials, not a club with which to impose supervision upon those officials.

If we are correct in this viewpoint, it would not matter much if drastic enforcement measures were wholly unavailable to supervisory agencies. However, we think that they may

serve a good purpose occasionally, and we would retain them on the condition that there be a certain amount of local responsibility for their invocation, not only in practice but also in law. It is suggested that the law should require responsible local officials or a fairly substantial group of local taxpayers to initiate such measures. When faced with a petition for reassessment, reconvention of a board of review, or removal of an assessor, the state supervisory agency would investigate the situation and either reject the petition or issue the appropriate order.

This is no startling innovation which we are proposing; it is substantially the practice now followed in those few instances in which drastic enforcement measures are employed. In Illinois, only the Cook County reassessment orders of 1928 were issued on motion of the Tax Commission, and then only after representations had been made to the Commission by several citizen groups and by over 145 individuals;<sup>47</sup> in Kansas the only reassessment orders of which we have found any trace were issued "on complaint of taxpayers";<sup>48</sup> and in Wisconsin the issuance of a reassessment or a so-called "special supervision" order has long required a petition signed by the owners of at least 5 per cent of the taxable property of the assessment district. What we propose to do is simply make a matter of law what has long been a matter of practice. We believe that such a law would make for more cordial relations between assessors and supervisors and would be a whole-some contribution to the cause of local self-government.

**6. Ordinarily, the state supervisory staff should be organized functionally where the county serves as the assessment district and geographically elsewhere.**

As a matter of practice, the assignment of supervisors to geographical areas within the state is found principally in states having township-municipal assessment districts. How-

<sup>47</sup> Illinois Tax Commission, *Tenth Annual Report, Assessment Year 1928*, p. 169.

<sup>48</sup> J. D. Silverherz, *op. cit.*, p. 156.

ever, owing in no small measure to the reputation of the Wisconsin system of supervision, there are a few instances in which states divided into county assessment districts have adopted a similar organization pattern. On the other hand, there are several states divided into township-municipal assessment districts which have rudimentary functional organization patterns, but it so happens that these are all states in which the supervisory activities of the state tax department are quite limited.

There are three advantages to the geographical pattern. First, it tends to reduce traveling expenses, since supervisors can be stationed at points near the centers of their districts rather than at the state capitol or some other focal point. Second, it reduces the number of assessors whom the supervisor must know and deal with, thus making for greater intimacy and increasing both the supervisor's opportunities for helpful service and the assessor's willingness to be assisted. Third, it avoids the danger that lines of authority will be crossed and that the assessor will be given conflicting advice by different field agents of the tax department.

The advantages of the functional pattern are also three in number. First, it permits specialization of the supervisors. A *district* supervisor should theoretically be able to do all assessment tasks a little better than the assessors in his district. Naturally, it is often impossible to find such a person. But it is usually possible to find a person who already knows, or can soon learn, more about some special aspect of the assessor's work than any single assessor is apt to know, and such a person is qualified to serve as a *functional* supervisor. Second, the functional pattern usually permits closer coordination of the supervisors' own work. District supervisors tend to become parochial and unless frequently brought together for conference may develop practices as diverse as those of local assessors themselves. Functional supervisors, however, are usually stationed at the same place and often work together in teams or groups, with the result that their standards are uni-

form and their work well coordinated. Finally, the functional pattern avoids personnel selection problems that are not inherent in the district system but are often associated with it. There is often strong demand for appointment of a district supervisor from among those already residing in the district. Usually the fact of prior residence will weigh in an applicant's favor when appointment is strictly on merit, but to allow it to weigh heavily or to make it a prerequisite may mean the difference between a poor supervisor and a good one.

The advantages of one organizational pattern cannot be weighed objectively against those of the other. In general, however, we believe the geographical pattern is best adapted to states having a large number of assessing districts, say over 100. With a few exceptions, these are the states which have the township assessment district pattern. It may also be that states of exceptionally large area would benefit by this type of organization, especially where appropriations for the purpose are niggardly. On the other hand, the functional pattern seems better adapted to such a state as Maryland, where both the area and the number of assessment districts are small.

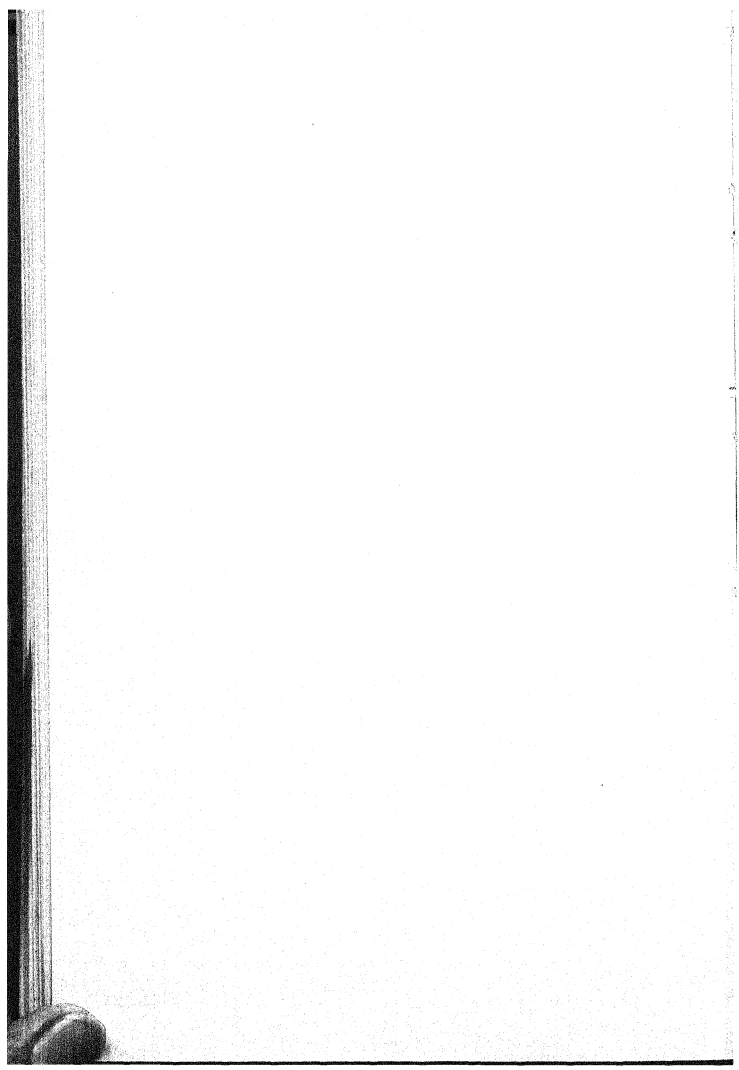
There are several states in which the ideal organization of the supervisory function would combine the geographical and functional patterns, and this would be true of many more states were they greatly to expand their supervisory activities. Such a combination can be achieved in various ways. The state can be divided into regions, with a chief supervisor and several functional supervisors in each region; or the functional supervisors can serve as staff members to a single chief supervisor stationed at the state capitol, available for the assistance of district supervisors faced with problems calling for special training or experience.

***7. Supervisors should be selected only after showing of merit and dismissed only after showing of good cause.***

Our final recommendation is a truth which might well be held self-evident. It is, however, none the less important for

being obvious. The success or failure of state supervision will hang more upon men than upon laws. A supervisor who is appointed because he has delivered votes or who is subject to dismissal for failure to deliver them can do more harm than good to local assessors, however impressive his other qualifications; and a supervisor who is unqualified for lack of knowledge will soon lose the confidence of assessors and may even throw the whole supervisory system into disrepute. Qualified supervisors are best assured by selecting applicants on demonstrated merit and dismissing them only for good cause.

## APPENDICES



## A. Enumeration and Classification of Primary Assessment Districts

MOST OF THE data appearing in Table I were derived from the census releases mentioned at that point. Other sources are listed under the appropriate headings below.

*Illinois.* The 1940 census places Peoria County in a population group in which a county board of assessors is required with elected deputy assessors in the 19 townships wholly outside the city of Peoria. Under existing law, members of this board will be elected in November 1942, and a new county assessment district will be made out of 20 existing township districts.

*Iowa.* The enumeration of township assessment districts, some of which are only parts of townships, was provided by Ben H. Hall, Director of the Property Tax Division, Iowa State Tax Commission, under date of Feb. 6, 1941. The enumeration of the other districts is taken from census releases and, owing to recent incorporations, is 19 less than the figure reported by Mr. Hall.

*Kansas.* Each township and each first- and second-class city in the state is considered one assessment district, although the county assessor is authorized, with the consent of the county commissioners, to subdivide each city and township into more than one assessment district. (*General Statutes, 1935, sec. 79-1411.*) The number of first- and second-class cities is taken from *Kansas Government Journal*, January 1941, p. 15.

*Maine.* The enumeration of districts is taken from a letter from the Executive Secretary of the Maine Municipal Association, dated May 4, 1940.

*Michigan.* Information on city ward assessment districts was compiled with the assistance of the Michigan Municipal League.

*Minnesota.* The number of townships is taken from *Minnesota Municipal Yearbook, 1940*, p. 45, and is 11 less than the number reported by the census release. Information on unorganized areas was provided by Ronald Powers, Deputy Commissioner of Taxation, under date of April 18, 1941.

*Nebraska.* All data are taken from page 12 of *Taxation and Costs of Government in Nebraska*, Nebraska Legislative Council, 1938, and from a letter from Roger V. Shumate, Director of Research for the Council, dated March 18, 1941. Data on city ward districts are not exact, and data on townships and unorganized areas (county precincts) do not agree with 1940 census data.

*North Dakota.* The number of organized townships is taken from *Preliminary Report of the North Dakota State-wide Highway Planning Survey, 1940*, v. I, p. 123, and is four less than the number reported in the census release. The number of unorganized areas is taken from a report of the Tax Survey Commission, *North Dakota's Tax System and Its Administration, 1936*, p. 57.

*Pennsylvania.* City wards were tabulated principally from data appearing in the *Pennsylvania Manual, 1939*.

*South Carolina.* These data are based partly on information supplied by county auditors, but are incomplete and not entirely accurate. In several instances in which a school district is coterminous with a municipality, the assessment district can be classified either as a school district or as a municipality, since neither of these governmental units participates in the assessment process. (The assessors are usually appointed by the state governor, are paid by the county, and report to the county auditor.) In other instances, the assessment district is coterminous with no single governmental unit.



All primary local assessment districts were classified in Table 1 into counties, townships, municipalities, city wards, school and civil districts, and unorganized areas. Table 11 provides a more detailed classification of assessment districts in the 1104 counties which are divided into two or more such districts. In this table, the governmental units serving as assessment districts are given their statutory designations with only such minor exceptions as are footnoted. The table also brings together in a single column the various assessment districts (city wards, civil districts, county precincts, and unorganized areas) which are not governmental units. Twenty-seven cities (Baltimore, St. Louis, Washington, and the 24 Virginia cities) which are not within counties are excluded from the tabulation.

TABLE 11. GOVERNMENTAL UNITS AND AREAS SERVING AS ASSESSMENT DISTRICTS IN COUNTIES WITH TOWNSHIP ASSESSMENT DISTRICT PATTERNS, APRIL 1, 1940

	Civil Town- ships <sup>1</sup>	New England Towns	Planta- tions	Cities	Urban Towns	Villages	Bor- oughs	School Dis- tricts	Areas
Conn.....	—	154	—	14 <sup>2</sup>	—	—	1 <sup>3</sup>	—	—
Ill.....	1383	—	—	—	—	—	—	—	—
Ind.....	1015	—	—	—	—	—	—	—	—
Iowa.....	1607 <sup>4</sup>	—	—	110 <sup>4</sup>	821 <sup>4</sup>	—	—	—	— <sup>4</sup>
Kan.....	1550 <sup>5</sup>	—	—	89 <sup>5</sup>	—	—	—	—	— <sup>5</sup>
Me.....	—	418	65	21	—	—	—	—	1
Mass.....	—	312	—	39	—	—	—	—	—
Mich.....	1266	—	—	147 <sup>6</sup>	—	—	—	—	66 <sup>4</sup>
Minn.....	1879	—	—	93	—	578 <sup>7</sup>	1	—	35
Mo.....	345	—	—	—	—	—	—	—	—
Nebr.....	470	—	—	—	—	—	—	—	1462 <sup>8</sup>
N.H.....	—	223	—	11	—	—	—	—	1
N.J.....	235	—	—	52	23	1	255	—	—
N.Y.....	932	—	—	59	—	—	—	—	—
N.D.....	1410	—	—	108 <sup>9</sup>	1	220 <sup>9</sup>	—	—	88 <sup>9</sup>
Pa.....	1383	—	—	—	1	—	731	—	285
R.I.....	—	32	—	7	—	—	—	—	—
S.C.....	260 <sup>10</sup>	—	—	80 <sup>10</sup>	— <sup>10</sup>	—	—	400 <sup>10</sup>	— <sup>10</sup>
S.D.....	1163	—	—	140	163	—	—	—	28
Tenn.....	—	—	—	—	—	—	—	—	39
Vt.....	—	238	—	8	—	—	—	—	5
Wis.....	1279	—	—	148	—	364	—	—	—
	16,183	1,377	65	1,126	1,009	1,163	988	400	2,010

Sources: See sources listed for Table 1.

<sup>1</sup>Including the rural "towns" of Minnesota, New York, and Wisconsin.

<sup>2</sup>Consolidated cities and towns. There are also six Connecticut cities which are not consolidated with their towns and are not primary assessment districts.

<sup>3</sup>Consolidated borough and town. There are also 18 Connecticut boroughs which are not consolidated with their towns and are not primary assessment districts.

<sup>4</sup>All of the state except the area inside Sioux City is divided into civil townships. However, any township or part of a township which lies in a city or town is assessed by a city or town officer.

<sup>5</sup>See the Kansas entry on p. 363.

<sup>6</sup>The Michigan Municipal League enumerates 167 cities in a report dated June 30, 1940, but 20 of these are divided into two or more assessment districts. The usual division in these cities is into wards, but there are several cities in which two wards constitute a single assessment district.

<sup>7</sup>A few villages have not been fully separated from their townships and hence do not serve as assessment districts. The 1940 census lists 64 such villages.

<sup>8</sup>Twenty-seven counties are primarily divided into townships and cities; the remaining sixty-six counties have some incorporated cities and villages but do not have townships.

<sup>9</sup>The 1940 census enumerates 111 cities and 221 villages. However, three cities and one village are each divided into two parts by a county line and each such part is a separate assessment district.

<sup>10</sup>South Carolina counties (aside from Charleston) are primarily divided into either townships or school districts, with towns and cities superimposed. Townships or school districts, or any parts thereof, lying within a town or city of any size are usually assessed by a board whose area of jurisdiction coincides with the area of the municipality. Information now available does not permit the division of municipalities into towns and cities. See also the South Carolina entry on p. 363.

## B. Populations of Primary Assessment Districts by States

TABLE 12 gives the percentage of the total number of primary assessment districts in each state which fall into each of six different population groups, with the states grouped into the three classes identified in Table 2. For example, it indicates that 4 per cent of the total number of Alabama primary districts had 1940 populations of 100,000 or over. These percentages can be translated into approximate absolute numbers by multiplying them by the respective totals appearing in the right-hand column of Table 1.

TABLE 12. PERCENTAGE DISTRIBUTION OF ASSESSMENT DISTRICTS IN EACH STATE BY POPULATION GROUPS, APRIL 1, 1940

COUNTY PATTERN	Under 5000	5000- 9999	10,000- 29,999	30,000- 49,999	50,000- 99,999	100,000 and Over
	%	%	%	%	%	%
Ala.....	—	—	52	33	10	4
Ariz.....	—	21	57	7	7	7
Ark.....	—	7	69	17	5	1
Cal.....	9	12	29	12	12	26
Colo.....	32	25	27	10	5	2
Del.....	—	—	—	33	33	33
Fla.....	10	27	40	9	3	4
Ga.....	4	30	53	6	3	1
Idaho.....	27	36	27	7	2	—
Ky.....	2	17	63	11	6	1
La.....	—	5	58	25	9	3
Md.....	—	—	54	13	25	8
Miss.....	—	6	67	18	7	1
Mont.....	36	32	27	4	2	—
Nev.....	71	6	18	6	—	—
N.M.....	13	16	61	6	3	5
N.C.....	—	10	46	21	18	12
Ohio.....	—	—	27	23	18	3
Okla.....	1	5	62	22	6	—
Ore.....	17	14	44	14	8	3
Texas.....	18	18	44	11	6	4
Utah.....	28	41	21	—	7	3
Va.....	6	27	45	16	4	2
Wash.....	13	21	28	21	10	8
W. Va.....	—	7	58	13	20	2
Wyo.....	22	30	43	4	—	—
TOWNSHIP PATTERN						
Conn.....	64	16	11	5	2	2
Ind.....	90	5	3	1	— <sup>a</sup>	— <sup>a</sup>
Iowa.....	98	1	1	— <sup>a</sup>	— <sup>a</sup>	— <sup>a</sup>
Kan.....	97	1	1	— <sup>a</sup>	— <sup>a</sup>	— <sup>a</sup>
Me.....	94	4	2	— <sup>a</sup>	— <sup>a</sup>	— <sup>a</sup>
Mass.....	64	14	14	4	2	2
Mich.....	93	3	3	— <sup>a</sup>	— <sup>a</sup>	— <sup>a</sup>
Neb.....	98	2	— <sup>a</sup>	— <sup>a</sup>	— <sup>a</sup>	— <sup>a</sup>
N.H.....	93	3	3	— <sup>a</sup>	— <sup>a</sup>	— <sup>a</sup>
N.J.....	73	13	9	2	1	1
N.D.....	99	— <sup>a</sup>	— <sup>a</sup>	— <sup>a</sup>	— <sup>a</sup>	— <sup>a</sup>
R.I.....	46	15	23	10	3	3
S.D.....	99	— <sup>a</sup>	— <sup>a</sup>	— <sup>a</sup>	— <sup>a</sup>	— <sup>a</sup>
Vt.....	96	2	2	— <sup>a</sup>	— <sup>a</sup>	— <sup>a</sup>
Wis.....	97	1	1	— <sup>a</sup>	— <sup>a</sup>	— <sup>a</sup>
MIXED PATTERN						
Ill.....	91	4	3	1	— <sup>a</sup>	— <sup>a</sup>
Minn.....	98	1	— <sup>a</sup>	— <sup>a</sup>	— <sup>a</sup>	— <sup>a</sup>
Mo.....	77	5	14	3	1	1
N.Y.....	82	8	7	1	1	1
Pa.....	91	7	2	— <sup>a</sup>	— <sup>a</sup>	— <sup>a</sup>
S.C.....	91	6	2	— <sup>a</sup>	— <sup>a</sup>	— <sup>a</sup>
Tenn.....	29	11	46	9	2	3

Source: Bureau of the Census, *Sixteenth Census of the United States, 1940* (press releases series P-2 and P-2a).

<sup>a</sup>Less than 0.5 per cent.

### C. Enumeration and Classification of Overlapping Assessment Districts

BECAUSE little has heretofore been written on overlapping assessment districts, Table 4 has been supplemented by the detailed references which follow. Such information as was collected on the activity of overlapping districts also appears in these paragraphs.

*Alabama.* "The county tax assessor is required by statute to make assessments in Birmingham and in the nine [11 by the 1940 census] cities from 6500 to 15,000 population." (Weldon Cooper, *Municipal Government and Administration in Alabama*, 1940, p. 84.) All other such municipalities are considered inactive optional assessment districts. E. E. Reid, Executive Secretary, The Alabama League of Municipalities, in a letter dated Jan. 14, 1941, advises us that "no municipality attempts to appraise the value of property for tax purposes . . .," and some authorities hold that they are constitutionally prohibited from doing so.

*Arizona.* According to the Corporation Tax Service (*Property Taxes*, p. 2001), Phoenix, Prescott, Tombstone, Tucson, and Yuma are optional assessment districts. However *Laws*, 1935, ch. 29, appears to have withdrawn such powers from Prescott. Phoenix and Yuma are reported to be the only active city assessment districts at the present time.

*California.* All municipalities except San Francisco, which is a primary district, are optional overlapping assessment districts. Irrigation districts are required to assess their own taxes, and sanitary districts, public utility districts, and water districts may do so. The enumeration of these special districts was provided by L. D. Gifford, Director of Research, California Taxpayers' Association, in a letter dated Dec. 27, 1940. The State Board of Equalization reports that 175 municipalities assessed their own taxes in 1940, and Mr. Gifford states that few, if any, of the other optional overlapping districts do their own assessing.

*Colorado.* All cities over 2000 except Denver, which is a primary assessment district, are authorized to adopt home-rule charters and to assess their taxes independently of their counties. None of the home-rule cities is an active assessment district.

*Connecticut.* An analysis of the charters of 18 boroughs and 6 cities not consolidated with their towns appears in a publication of the Connecticut Tax Commissioner entitled *Statutes Pertaining to the Assessment and Collection of Property and Personal Taxes* . . . , October 1935, pp. 406-8. Although many of these municipalities have some of the attributes of assessment districts, it is believed that only Norwich, Rockville, and Litchfield can properly be classified as such, after removing Stonington from the list by reason of Special Act No. 105, 1937. Rockville seems to be the only active overlapping assessment district.

*Delaware.* All municipalities are governed by special charters, 22 of which were examined for assessment powers. Twenty-one of these were found to have assessing powers, although two may adopt the county assessment if they choose. The 30 cities whose charters were not examined were assumed to be distributed into optional assessment districts, mandatory assessment districts, and non-assessment districts in the same proportions.

*Florida.* All municipalities are mandatory overlapping assessment districts.

*Georgia.* "According to your definitions, all Georgia cities, towns, and villages are overlapping assessment districts, all are mandatory districts, and all are active districts." (Excerpt from a letter from Lloyd B. Raisty, Professor of Public Administration, University of Georgia, dated Dec. 14, 1940.)

*Kentucky.* First- to fifth-class cities are mandatory overlapping assessment districts, and sixth-class cities are optional overlapping districts. The number of cities in each class was provided by Carl B. Wachs, Executive Secretary of the Kentucky Municipal League, in a letter dated Dec. 5, 1940. The total number of cities so reported is 52 less than the number of municipalities reported in the 1940 census, the discrepancy being due, apparently, to the fact that certain areas are technically incorporated but have no active governments. It is Mr. Wachs' impression that about half of the sixth-class cities are making their own assessments.

*Michigan.* Villages operating under the general laws are required to assess their own taxes; but, since any village may adopt a home-rule charter, all are considered optional assessing districts. In practice, all make their own assessments. The enumeration of villages is taken from the Michigan Municipal League's *Directory of Michigan Municipal Officials, 1940-41*.

*Mississippi.* All municipalities are optional overlapping assessment districts. Out of 48 municipalities studied by Satterfield and Urban (*Municipal Government and Administration in Mississippi, 1940*, p. 99), only one merely copied the county rolls. All but one of the other 47 were found to rely upon the county rolls in some degree. (Memorandum prepared by Mr. Urban and transmitted by Mr. Satterfield under date of Nov. 25, 1940.)

*Missouri.* The city of St. Louis is a primary assessment district. First-, second-, and third-class cities are mandatory overlapping assessment districts, while Kansas City (a home-rule city) and, apparently, fourth-class cities are optional overlapping assessment districts. Although the law is ambiguous (compare sections 7100 and 7109 of the *Revised Statutes*), towns and villages are probably not assessment districts. No accurate enumeration of cities by classes is available, but it appears that there is one first-class city (St. Joseph) and two second-class cities (Joplin and Springfield). There are 65 cities eligible for the third class and 254 eligible for the fourth class according to the 1940 census. No estimate of the number of active overlapping assessment districts has been found.

*Nebraska.* All cities with populations exceeding 5000 may adopt home-rule charters. It appears from *Eppley Hotels Co. v. City of Lincoln* (1937) 133 Nebr. 550, 276 N. W. 196, that a home-rule city may assess its own taxes. Lincoln appears to be directed by law to make an overlapping assessment (*Compiled Laws, 1929*, sec. 15-319), but is a home-rule city and hence presumably has the option of adopting the county assessment. Lincoln is the only active overlapping assessment district in the state.

*New Mexico.* The charter of Silver City gives the town council the authority to appoint an assessor and such an officer is actually appointed, according to a letter from Robert Asplund, Director of the Taxpayers' Association of New Mexico, dated Mar. 16, 1940.

*New York.* All villages are optional overlapping assessment districts. In addition, the cities of Nassau County may make their own assessments. H. R. Enslow, formerly Assistant Director of the Bureau of Local Assess-

ments, State Department of Taxation and Finance, in a letter dated July 22, 1938, states that about 260 villages "either copy the town roll or make considerable use of it."

*North Carolina.* Towns and cities lying in two or more counties are mandatory overlapping assessment districts.

*Pennsylvania.* The one second-class city (Pittsburgh) is a mandatory assessment district until the end of 1941, when it is to cease doing its own assessing. Third-class cities are mandatory assessment districts except in third-class counties, where they have the option of adopting county assessments. In addition, any borough in a county which has no "county board of assessors" can establish its own assessing machinery, and this apparently refers to boroughs in fourth- to eighth-class counties. The *Pennsylvania Manual, 1939* lists assessors for all but two third-class cities (Jeanette and New Kensington). No borough is known to have assessed independently of its county. (Letters from H. F. Alderfer, Executive Secretary, Institute of Local Government, and T. F. Chrostwaite, President, State Association of Boroughs, dated Dec. 3, 1937, and Nov. 22, 1940, respectively.)

*Tennessee.* Practically all of the 221 Tennessee cities and towns are governed by special charters. Information on assessment powers was collected for 58 of them, and this was assumed to be a representative sample. Messrs. Lyndon Abbott and Lee S. Greene tabulated the information for some of these cities and transmitted it under date of May 25, 1939. The studies of Messrs. Abbott and Greene suggest that approximately half of the optional overlapping districts do their own assessing.

*Texas.* All municipalities, independent school districts not constituted of a town or city, drainage districts, water control and improvement districts, water improvement districts, and navigation districts, some of which had previously been mandatory overlapping assessment districts and others optional overlapping assessment districts, are allowed to contract with the county for assessment and collection of taxes, using the assessment on which county taxes are based, under the terms of ch. 15, *Laws of 1939*. This chapter also confers the same power upon common school districts, but such districts had not previously been authorized to depart from the county assessor's valuations (see *Civil Statutes*, art. 2784 (5)) and hence are not classified as overlapping assessment districts. A few classes of special districts which are not mentioned in the 1939 act have been authorized to assess ad valorem taxes. The latter include certain rural high school districts (Art. 2922 l), county unit systems (Art. 2724), junior college districts (Art. 2815h-7a), water power control districts (but these districts are subject to the assessment laws applicable to water improvement districts and hence are probably governed by the 1939 act), conservation and reclamation districts (Art. 8197a5), and fresh water supply districts (Art. 7945). Rural high school districts, county unit systems, and fresh water supply districts seem to be mandatory assessment districts. The enumeration of governmental units in the various categories is taken from *Units of Local Government in Texas*, The Bureau of Municipal Research, The University of Texas, Austin, 1941. Practically all Texas municipalities are active assessment districts, but no estimate of the number of active districts of other types has been found.

*Virginia.* Towns situated in more than one county are authorized by general law (*Tax Code*, sec. 250a) to make their own real estate assessments. It

is possible that some other towns have similar powers. (See League of Virginia Municipalities, *Assessment Practices in Virginia Towns*, May 1937.)

*Washington.* The law pertaining to assessments of property for city taxes is obscure (see especially *Remington's Revised Statutes*, sections 8946 and 11,318), but the only active overlapping assessment district (see *Opportunity Township v. Kingsland* (1938) 194 Wash. 229, 77 Pac. (2d) 793) and probably the only municipality with assessing powers is Waitsburg, a city operating under a special charter granted before Washington became a state.

*Wyoming.* All cities and towns are authorized to provide by ordinance for the assessment, levy, and collection of taxes. However, the secretary of the State Board of Equalization informs us in a letter dated Feb. 23, 1938, that all municipalities base their taxes on county assessments.

## D. Assessment Levels in Overlapping Assessment Districts

THE BUREAU of the Census has for a good many years gathered data on the assessment of property within the boundaries of major cities. Where the county and the city assess separately, the actual or estimated assessment of such property by the county has been tabulated in addition to the city assessment. The county assessment must frequently be estimated because the assessor's records do not segregate property within the city from that outside the city limits. The ratios of the actual city assessment to the actual or estimated county assessment of substantially the same property in 65 cities are given in Table 13.

TABLE 13. RATIOS OF CITY ASSESSMENTS TO COUNTY ASSESSMENTS IN ACTIVE CITY OVERLAPPING ASSESSMENT DISTRICTS WITH 1930 POPULATIONS OF 30,000 AND OVER

(1931 data for cities of 30,000 to 100,000 and 1937 data for cities over 100,000)

State and City	Total Assessments	Real Property Assessments	Personal Property Assessments	Other Property Assessments
ARIZONA				
Phoenix.....	1.31	—	—	—
CALIFORNIA				
Alameda.....	1.17	1.20	1.07	—
Berkeley.....	1.23	1.30	1.03	—
Long Beach.....	1.34 <sup>b</sup>	1.34	1.34 <sup>b</sup>	—
Pasadena.....	1.40	1.57	1.16	—
Sacramento.....	1.18	1.18	1.17	—
Santa Barbara.....	1.31	1.59	1.04	—
Santa Monica.....	1.02	1.00	1.09	—
Stockton.....	1.56	1.75	1.11	—
DELAWARE				
Wilmington.....	1.05	1.05	—	—
FLORIDA				
Jacksonville.....	1.55	1.70	1.40	— <sup>c</sup>
Miami.....	3.62	3.76	3.39	— <sup>c</sup>
Pensacola.....	1.70	1.91	1.26	.98
St. Petersburg.....	5.61	5.73	9.28	— <sup>c</sup>
Tampa.....	2.63	2.65	3.22	— <sup>c</sup>
GEORGIA				
Atlanta.....	1.43	1.46	1.56	1.00 <sup>d</sup>
Augusta.....	1.26	1.16	1.66	1.00 <sup>d</sup>
Columbus.....	1.21	1.33	1.00	1.00 <sup>d</sup>
Macon.....	1.15	1.22	1.03	1.00 <sup>d</sup>
Savannah.....	1.56	1.45	1.66	1.00 <sup>d</sup>
KENTUCKY				
Covington.....	1.00	.98	1.16	—
Lexington.....	1.12	1.16	1.03	—
Louisville.....	.97	.99	.94	—
Paducah.....	1.03	1.09	.85	—

TABLE 13—Concluded

State and City	Total Assessments	Real Property Assessments	Personal Property Assessments	Other Property Assessments
<b>MISSISSIPPI</b>				
Jackson.....	1.13	1.23	.90	1.00 <sup>d</sup>
Meridian.....	1.21	1.27	1.18	1.00 <sup>d</sup>
<b>MISSOURI</b>				
Joplin.....	1.00	1.00	1.00	1.00 <sup>d</sup>
Kansas City.....	1.01	.89	1.02	1.00 <sup>d</sup>
St. Joseph.....	1.00	1.00	1.00	1.00 <sup>d</sup>
Springfield.....	1.00	1.00	1.00	1.00 <sup>d</sup>
<b>NEBRASKA</b>				
Lincoln.....	1.15	1.08	1.47	—
<b>PENNSYLVANIA</b>				
Allentown.....	1.02 <sup>b</sup>	1.02	—	—
Altoona.....	1.71 <sup>b</sup>	1.71	—	—
Bethlehem.....	1.52 <sup>b</sup>	1.53	—	—
Chester.....	1.51 <sup>b</sup>	1.51	—	—
Easton.....	1.57 <sup>b</sup>	1.57	—	—
Erie.....	1.52 <sup>b</sup>	1.52	—	—
Harrisburg.....	1.17 <sup>b</sup>	1.17	—	—
Hazleton.....	1.11 <sup>b</sup>	1.11	—	—
Johnstown.....	1.02 <sup>b</sup>	1.02	—	—
Lancaster.....	2.59 <sup>b</sup>	2.59	—	—
McKeesport.....	.93 <sup>b</sup>	.93	—	—
New Castle.....	1.28 <sup>b</sup>	1.28	—	—
Norristown.....	.92 <sup>b</sup>	.92 <sup>o</sup>	—	—
Pittsburgh.....	1.01 <sup>b</sup>	1.01 <sup>t</sup>	—	—
Reading.....	1.29 <sup>b</sup>	1.29	—	—
Wilkes-Barre.....	1.04 <sup>b</sup>	1.04	—	—
Williamsport.....	1.88 <sup>b</sup>	1.88	—	—
York.....	1.75 <sup>b</sup>	1.75	—	—
<b>TENNESSEE</b>				
Knoxville.....	1.33	1.21	2.01	1.86
Memphis.....	.90	.89	1.00	.85
Nashville.....	.88	.80	.89	1.00
<b>TEXAS</b>				
Amarillo.....	1.51	1.56	1.35	—
Austin.....	1.46	1.39	1.79	—
Beaumont.....	1.73	2.00	.94	—
Dallas.....	1.20 <sup>s</sup>	1.25	1.08 <sup>s</sup>	—
El Paso.....	1.07	1.12	.90	—
Fort Worth.....	1.11	1.06	1.33	—
Galveston.....	.98	.99	1.07	—
Houston.....	1.29	1.23	1.64	—
Laredo.....	1.53	1.52	1.57	—
Port Arthur.....	1.54	1.37	3.29	—
San Antonio.....	1.29	1.23	1.57	—
Waco.....	1.12	1.12	1.12	—
Wichita Falls.....	1.43	1.39	1.59	—

Sources: Bureau of the Census, *Financial Statistics of Cities Having a Population of Over 30,000, 1931*, pp. 451-99; *Financial Statistics of Cities Over 100,000 Population, 1937*, pp. 243-55.

<sup>a</sup>City assessments are not divided as between real and personal property.

<sup>b</sup>Intangibles, which are assessed by the county but not by the city, have been excluded from city and county assessments.

<sup>c</sup>Certain public utility property which is divided by the city assessor into real property and personal property is reported by the county under this heading. Although the assessment so reported affects the ratio of total city assessments to total county assessments, the ratio for this column is zero.

<sup>d</sup>Figures in this column are for state assessments of public utilities and do not reflect differences in local assessment practices. However, they do have the effect of bringing the figure in the first column closer to unity.

<sup>e</sup>Data are for 1930. No data were reported for 1931.

<sup>f</sup>Real estate taxable by the city is not entirely comparable to that taxable by the county.

<sup>g</sup>Rolling stock and intangibles of certain corporations which are assessed by the county but not by the city have been deducted from county assessments.

## E. Agencies Assessing Special Types of Property

TABLES 14 to 20, inclusive, show the division of responsibility between state and local assessing agencies for certain types of public utility properties, mining properties, forests, and motor vehicles. In states not listed in Tables 18 to 20, there is no special property tax on the types of property to which the tables relate.

TABLE 14. STATES IN WHICH PROPERTY TAXES ON SPECIFIED TYPES OF PRIVATELY OWNED, NON-MUTUAL PUBLIC UTILITIES ARE ASSESSED EXCLUSIVELY BY STATE, OR EXCLUSIVELY BY LOCAL AGENCIES, JANUARY 1, 1941

Railroad	Express	Telegraph	Telephone	Electric	Gas	Water
<i>State-Assessed</i>	<i>State-Assessed</i>	<i>State-Assessed</i>	<i>State-Assessed</i>	<i>State-Assessed</i>	<i>State-Assessed</i>	<i>State-Assessed</i>
Alabama	Alabama	Alabama	Alabama	Alabama	Alabama	Alabama
California	California	California	California	California	California	Georgia
Georgia	Georgia	Georgia	Georgia	Georgia	Georgia	Kentucky <sup>1</sup>
Kentucky <sup>1</sup>	Kentucky <sup>1</sup>	Kentucky <sup>1</sup>	Kentucky <sup>1</sup>	Kentucky <sup>1</sup>	Kentucky <sup>1</sup>	Kentucky <sup>1</sup>
Mississippi <sup>1</sup>	Mississippi <sup>1</sup>	Mississippi <sup>1</sup>	Mississippi <sup>1</sup>	Mississippi <sup>1</sup>	Mississippi <sup>1</sup>	Oklahoma
Oklahoma	Oklahoma	Oklahoma	Oklahoma	Oklahoma	Oklahoma	Tennessee
Tennessee	Tennessee	Tennessee	Tennessee	Tennessee	Tennessee	Utah <sup>2</sup>
Utah <sup>2</sup>	Utah <sup>2</sup>	Utah <sup>2</sup>	Utah <sup>2</sup>	Utah <sup>2</sup>	Utah <sup>2</sup>	Virginia
Virginia	Virginia	Virginia	Virginia	Virginia	Virginia	Wyoming
<i>Locally Assessed</i>	<i>Locally Assessed</i>	<i>Locally Assessed</i>	<i>Locally Assessed</i>	<i>Locally Assessed</i>	<i>Locally Assessed</i>	<i>Locally Assessed</i>
Delaware <sup>3</sup>	Delaware <sup>3</sup>	Delaware <sup>3</sup>	Delaware <sup>3</sup>	Delaware <sup>3</sup>	Delaware <sup>3</sup>	Arizona
Montana <sup>4</sup>	Montana <sup>4</sup>	Montana <sup>4</sup>	Montana <sup>4</sup>	Montana <sup>4</sup>	Montana <sup>4</sup>	California
Washington <sup>5</sup>	Washington <sup>5</sup>	Washington <sup>5</sup>	Washington <sup>5</sup>	Washington <sup>5</sup>	Washington <sup>5</sup>	Connecticut
						Florida
						Illinois
						Indiana
						Iowa
						Kansas
						Maine
						Maryland <sup>6</sup>
						Minnesota
						Mississippi <sup>4</sup>
						Missouri
						Montana
						Nebraska
						Nevada
						New Hampshire
						New Jersey
						New Mexico
						North Dakota
						Texas
						Vermont
						Washington <sup>6</sup>
						Wisconsin <sup>10</sup>

Sources: Tax Research Foundation, *Tax Systems*, 1940, pp. 248-53; state statutes.

<sup>1</sup>Nonoperating property of a company engaged only incidentally in a public utility business may be assigned for local assessment at the discretion of the Commissioner of Revenue.

<sup>2</sup>Intangibles are exempt.

<sup>3</sup>Only real estate is assessable. Railroad land within the right of way is exempt.

<sup>4</sup>Intracounty corporations only. For intercounty corporations, see Table 15, 16, or 17. On Washington, see *N. W. Improvement Co. v. Henneford* (1935) 84 Wash. 416, 51 Pac. (2d) 1083.

<sup>5</sup>Gross earnings are assessed by the state tax department; no property is locally assessable.

<sup>6</sup>Foreign corporations only. For domestic corporations, see Table 17. Companies whose property is assessed at \$2000 or less are under the jurisdiction of local assessors.

<sup>7</sup>Corporate stock or property is valued at \$5000 or less are under the jurisdiction of local assessors.

<sup>8</sup>All property of intercounty corporations is state-assessed; all property of intracounty corporations is locally assessed.

<sup>9</sup>Intra-assessment district corporations only. For inter-assessment district corporations, see Table 15.



TABLE 15. STATES IN WHICH TAXES ON TAXABLE NONOPERATING PROPERTY OF SPECIFIED TYPES OF PRIVATELY OWNED, NON-MUTUAL PUBLIC UTILITIES ARE ASSESSED BY LOCAL AGENCIES AND TAXES ON ALL OTHER TAXABLE PROPERTY OF SUCH UTILITIES ARE ASSESSED BY STATE AGENCIES, JANUARY 1, 1941

Railroad	Express	Telegraph	Telephone	Electric	Gas	Water
Arizona	Arkansas	Arkansas	Arkansas	Arkansas	Arkansas	Arkansas
Arkansas	Colorado	Colorado	Colorado	Colorado	Colorado	Colorado
Florida <sup>1</sup>	Iowa	Florida <sup>1</sup>	Idaho	Idaho <sup>2</sup>	Louisiana	Louisiana
Idaho	Louisiana	Idaho	Iowa	Louisiana <sup>3</sup>	North Dakota	North Dakota
Illinois	Nevada <sup>3</sup>	Iowa	Louisiana	Nevada <sup>3</sup>	South Dakota	South Dakota
Minnesota	New Hampshire <sup>4</sup>	Louisiana	Nevada <sup>3</sup>	New Mexico <sup>2</sup>	Washington <sup>5</sup>	Washington <sup>5</sup>
Missouri	North Dakota	New Mexico	New Mexico	North Dakota	Wisconsin <sup>6</sup>	Wisconsin <sup>6</sup>
Nevada <sup>3</sup>	Vermont <sup>6</sup>	Nevada <sup>3</sup>	North Dakota	South Dakota		
New Hampshire <sup>4</sup>	Washington <sup>3</sup>	North Dakota	South Dakota	Washington <sup>3</sup>		
New Jersey	Wisconsin <sup>3</sup>	South Dakota	Washington <sup>3</sup>	Wisconsin <sup>3</sup>		
New Mexico		Vermont <sup>6</sup>				
North Dakota		Washington <sup>3</sup>				
South Dakota		Wisconsin <sup>3</sup>				
Vermont						
Washington <sup>3</sup>						
Wisconsin <sup>3</sup>						

Sources: Tax Research Foundation, *Tax Systems*, 1940, pp. 248-53; state statutes.

<sup>1</sup>Cities (overlapping assessment districts) may assess fixed property at their own valuations. See *Harbess v. Seaboard Airline Railway* (1936) 99 Fla. 1027, 128 So. 204.

<sup>2</sup>Operating property is taxed by means of a gross earnings tax.

<sup>3</sup>Intercountry corporations and intracounty corporations, see Table 14. On Washington, N. W., *Improvement Co. v. Henneford* (1935) 84 Wash. 416, 51 Pac. (2d) 1083.

<sup>4</sup>Nonoperating personal property is exempt.

<sup>5</sup>Operating property is taxed by means of a specific tax per mile of line. Operating property is taxed by means of a gross earnings tax or a specific tax per mile of line, at the option of the taxpayer.

<sup>6</sup>Law refers only to "electric transmission lines."

<sup>7</sup>Inter-assessment district corporations only. For intra-assessment district corporations, see Table 14.

<sup>8</sup>See *Milwaukee Gas Light Co. v. Arnold* (1926) 190 Wis. 602, 209 N. W. 601.

TABLE 16. STATES IN WHICH TAXES ON NONOPERATING REAL PROPERTY OF SPECIFIED TYPES OF PRIVATELY OWNED, NON-MUTUAL PUBLIC UTILITIES ARE ASSESSED BY LOCAL AGENCIES AND TAXES ON ALL OTHER TAXABLE PROPERTY OF SUCH UTILITIES ARE ASSESSED BY STATE AGENCIES, JANUARY 1, 1941

Railroad	Express	Telegraph	Telephone	Electric	Gas	Water
Colorado	Michigan	Michigan	Michigan	Mississippi <sup>5</sup>	Mississippi	Mississippi <sup>5</sup>
Connecticut <sup>1</sup>	Mississippi	Mississippi	Mississippi <sup>5</sup>	Ohio <sup>4</sup>	Ohio <sup>4</sup>	Ohio <sup>4</sup>
Illinois	Ohio <sup>4</sup>	Ohio <sup>4</sup>	Ohio <sup>4</sup>	Oregon	Oregon	Oregon
Kansas	Oregon	Oregon	Oregon	Pennsylvania <sup>3</sup>	Pennsylvania <sup>3</sup>	Pennsylvania <sup>3</sup>
Michigan	Pennsylvania <sup>3</sup>	Pennsylvania <sup>3</sup>	Pennsylvania <sup>3</sup>	West Virginia	West Virginia	West Virginia
Mississippi	West Virginia	West Virginia	West Virginia			
Ohio			Wisconsin <sup>2</sup>			
Oregon <sup>2</sup>						
Pennsylvania <sup>3</sup>						
West Virginia						

Sources: Tax Research Foundation, *Tax Systems*, 1940, pp. 248-53;

state statutes.

<sup>1</sup>State tax is levied on gross operating earnings, with offset for taxes on non-operating realty in Connecticut.

<sup>2</sup>Except that docks, water craft, and other operating property used in navigation are taxed on gross operating earnings.

<sup>3</sup>State taxes are levied on gross operating earnings and apportioned capital stock. Railroad corporations are locally assessable on all of their

real estate, whether operating or nonoperating, in Pittsburgh and upon all of their real property except the superstructure of their roads and water stations in Philadelphia.

<sup>4</sup>The Ohio law is not entirely clear, but this classification conforms to the accepted practice.

<sup>5</sup>Intercounty corporations only. For intracounty corporations, see Table 14.

TABLE 17. AGENCIES ASSESSING PROPERTY TAXES ON SPECIFIED TYPES OF PRIVATELY OWNED, NON-MUTUAL PUBLIC UTILITIES NOT COVERED BY TABLES 14, 15, AND 16, JANUARY 1, 1941

	Railroad Companies		Express Companies	
	State-Assessed	Locally Assessed	State-Assessed	Locally Assessed
Conn. ....	—	—	Gross earnings	Real prop. <sup>1</sup>
Ill. ....	—	—	Corporate excess of dom. corp. <sup>2</sup>	Tang. prop. of dom. corp.
Ind. ....	Realty, tracks, poles, wires, in- tercity and utility stock; in- right of way; rolling stock; in- tang.; corporate excess <sup>2</sup>	Realty outside right of way, mchv., stationary engines and fixtures, other tang. personality	Intang., corporate excess <sup>2</sup>	Realty, structures, mchv., appli- ances
Iowa. ....	All prop. not locally assessed	Nonoperating real prop., grain ele- vators, bridges over Mo. and Miss. rivers	—	—
Kan. ....	—	—	Gross earnings	Tang. prop.
Me. ....	Gross earnings	Land and fixtures outside right of way; bldgs.	Gross earnings	Real prop.
Md. <sup>2</sup> ....	Rolling stock	All other tang. prop.	Franchise of dom. corp. <sup>4</sup>	Realty of dom. corp.
Mass. ....	Franchise <sup>4</sup>	Realty, works, structures, motor ve- hicles, trailers, mchv., poles, under- ground conduits, wires, pipes <sup>5</sup>	Corporate excess <sup>2</sup>	Realty, works, structures, motor vehicles, trailers, mchv., poles, underground conduits, wires, pipes <sup>5</sup>
Mo. ....	Franchise, right of way, road bed, tracks, depots, section houses, water tanks, turntables, engines, cars, other operating prop. not locally assessed	Machine and work shops, round houses, warehouses, furn. and fix- tures, repair tools and mchv., sup- plies, motor vehicles, intang., non- operating prop.	Franchise, rolling stock	Realty, furn. and fixtures, repair tools and mchv., supplies, motor vehicles, intang., nonoperating prop.
Mont. ....	Franchise, roadway, roadbed, rails, and rolling stock of intercounty corp. except franchise of corp. chartered by U. S.	Depots, stations, shops and buildings on right of way, and all other prop. of intercounty corp. not state- assessed	Gross earnings	Tang. prop.
Nebr. ....	All operating prop. not locally assessed	Machine repair shops, storehouses, gen'l office bldgs., prop. outside right of way and not ground, all nonoperating prop. <sup>3</sup>	Franchise <sup>4</sup>	Tang. prop.
N.M. ....	—	—	Gross earnings	Real prop.
N.Y. ....	Special franchise <sup>4</sup>	Real prop. <sup>7</sup>	Special franchise <sup>6</sup>	Real prop. <sup>7</sup>
N.C. ....	Intang., all tang. prop. not locally assessed, corporate excess <sup>2</sup>	Machines and repair shops, gen'l office bldgs., storehouses and stores located outside right of way	Intang., corporate excess <sup>3</sup>	Realty, structures, mchv., appli- ances
R.I. ....	Gross earnings	Tang. prop.	Gross earnings	Realty, nonoperating personality
S.C. ....	Operating tang. prop.; moneys and credits	Nonoperating tang. prop.	Corporate excess <sup>2</sup>	Realty, structures, mchv., fixtures, appliances
Texas. ....	Intang. prop.	Tang. prop.	—	—
Wyo. ....	All operating prop. not locally assessed <sup>8</sup>	Machine shops, rolling mills, hotels, the preserving plants, all nonoper- ating prop.	—	—

For footnotes, see p. 377.

TABLE 17—Continued

	Telegraph Companies		Telephone Companies	
	State-Assessed	Locally Assessed	State-Assessed	Locally Assessed
Conn. ....	Gross earnings	Real prop. <sup>1</sup>	Gross earnings	Real prop. <sup>1</sup>
Ill. ....	Corporate excess of dom. corp. <sup>2</sup>	Tang. prop. of dom. corp.	Corporate excess of dom. corp. <sup>2</sup>	Tang. prop. of dom. corp.
Ind. ....	Intang., corporate excess <sup>3</sup>	Realty, structures, mch., appliances	Intang., corporate excess <sup>3</sup>	Realty, structures, mch., appliances
Me. ....	Gross earnings	Real prop.	Gross earnings	Real prop.
Md. <sup>1</sup> ....	Franchise of dom. corp. <sup>4</sup>	Realty of dom. corp.	Franchise of dom. corp. <sup>4</sup>	Realty of dom. corp.
Mass. ...	Franchise <sup>4</sup> mch., poles, underground conduits, wires, pipes <sup>5</sup>	Realty, works, structures, motor vehicles, trailers	Franchise <sup>4</sup> mch., poles, underground conduits, wires, pipes <sup>5</sup>	Realty, works, structures, motor vehicles, trailers <sup>5</sup>
Minn. ....	—	—	Gross earnings	Moneys and credits
Mo. ....	Franchise, right of way, poles, wires, other operating prop. not locally assessed	Realty other than right of way, furn., fixtures, repairs, and mch., supplies, motor vehicles, intang., nonoperating prop.	Franchise, right of way, poles, wires, furn., fixtures, repairs, and mch., supplies, motor vehicles, intang., other operating prop. not locally assessed	Realty other than right of way, furn., fixtures, repairs, and mch., supplies, motor vehicles, intang., nonoperating prop.
Mont. ....	All prop. of intercounty corp. not locally assessed except franchise of corp. chartered by U. S.	Realty of intercounty corp. outside right of way	All prop. of intercounty corp. not locally assessed except franchise of corp. chartered by U. S.	Realty of intercounty corp. outside right of way
Nebr. ....	Franchise <sup>4</sup>	Tang. prop.	Franchise <sup>4</sup>	Tang. prop.
N. H. ....	All operating prop. not locally assessed	Office and central station bldgs., nonoperating realty	All operating prop. not locally assessed	Office and central station bldgs., nonoperating realty
N. Y. ....	Special franchise <sup>4</sup>	Real prop. <sup>7</sup>	Special franchise <sup>6</sup>	Real prop. <sup>7</sup>
N. C. ....	Structures, mch., appliances, pole lines, wires, conduits, intang., corporate excess <sup>3</sup>	Land, bldgs.	Structures, mch., appliances, pole lines, wires, conduits, intang., corporate excess <sup>3</sup>	Land, bldgs.
R. I. ....	Gross earnings	Realty, nonoperating personality	Gross earnings	Realty, nonoperating personality
S. C. ....	Corporate excess <sup>3</sup>	Realty, structures, mch., fixtures, appliances	Corporate excess <sup>3</sup>	Realty, structures, mch., fixtures, appliances

For footnotes, see p. 377.

TABLE 17—Continued

	Electric Companies		Gas Companies	
	State-Assessed	Locally Assessed	State-Assessed	Locally Assessed
Ill.....	Corporate excess of dom. corp. <sup>2</sup>	Tang. prop. of dom. corp.	Corporate excess of dom. corp. <sup>2</sup>	Tang. prop. of dom. corp.
Ind.....	Intang., corporate excess <sup>2</sup>	Realty, structures, mchy., appliances	Intang., corporate excess <sup>2</sup>	Realty, structures, mchy., appliances <sup>2b</sup>
Iowa.....	Lands, bldgs., mchy., poles, wires, substations and substating equipment, operating personality	Franchise, <sup>1</sup> all tang. prop. not assessed by state	Lands, bldgs., mchy., mains, operating personality	Franchise, <sup>1</sup> all tang. prop. not assessed by state
Md. <sup>3</sup> .....	Franchise of dom. corp. <sup>4</sup>	Realty of dom. corp.	Franchise of dom. corp. <sup>4</sup>	Realty of dom. corp.
Mass.....	Franchise <sup>4</sup>	Realty, works, structures, motor vehicles, trailers, mchy., poles, underground conduits, wires, pipes <sup>5</sup>	Franchise <sup>4</sup>	Realty, works, structures, motor vehicles, trailers, mchy., poles, underground conduits, wires, pipes <sup>5</sup>
Mich.....	Intangibles	Tang. prop.	Intangibles	Tang. prop.
Minn.....	Personalty outside cities and villages	Realty; personalty in cities and villages	—	—
Mo.....	Franchise, right of way, poles, wires, electrical equipment, other operating prop. not locally assessed	Realty other than right of way, turn, and fixtures, repair tools and mchy., supplies, motor vehicles, intangibles, nonoperating prop.	—	—
Mont.....	All property of intercounty corp. not locally assessed except franchise of corp. chartered by U. S. <sup>11</sup>	Realty of intercounty corp. outside right of way	—	—
Nebr.....	Franchise <sup>4</sup>	Tang. prop.	Franchise <sup>4</sup>	Tang. prop.
N.H.....	Franchise <sup>4</sup>	Tang. prop.	Franchise <sup>4</sup>	Tang. prop.
N.J.....	Gross earnings	Lands, bldgs., appliances held for sale	Gross earnings	Lands, bldgs., appliances and by-products held for sale
N.Y.....	Special franchise <sup>6</sup>	Real prop. <sup>7</sup>	Special franchise <sup>6</sup>	Real prop. <sup>7</sup>
N.C.....	Intang., corporate excess <sup>2</sup>	Realty, structures, mchy., appliances	Intang., corporate excess <sup>2</sup>	Realty, structures, mchy., appliances
R.I.....	Gross earnings	Tang. prop.	Gross earnings	Tang. prop.
S.C.....	Operating tang. prop., moneys and credits	Nonoperating tang. prop.	Operating tang. prop., moneys and credits	Nonoperating tang. prop. <sup>12</sup>

For footnotes see p. 377.

TABLE 17—Concluded

Water Companies	
State-Assessed	Locally Assessed
Ill. .... Corporate excess of dom. corp. <sup>2</sup>	Tang. prop. of dom. corp.
Ind. .... Intang., corporate excess <sup>2</sup>	Realty, structures, mch., appliances
Iowa. .... Lands, bldgs., mch., mains, operating personality	Franchise, <sup>4</sup> all tang. property not assessed by state
Md. <sup>2</sup> .... Franchise of dom. corp. <sup>4</sup>	Realty of dom. corp.
Mass. .... Franchise <sup>4</sup>	Realty, works, structures, motor vehicles, trailers, mch., poles, underground conduits, wires, pipes <sup>6</sup>
Mich. .... Intangibles	Tang. prop.
Nebr. .... Franchise <sup>4</sup>	Tang. prop.
N.Y. .... Special franchise <sup>6</sup>	Real prop. <sup>7</sup>
N.C. .... Intang., corporate excess <sup>2</sup>	Realty, structures, mch., appliances
R.I. .... Gross earnings	Tang. prop.
S.C. .... Operating tang. prop., moneys and credits	Nonoperating tang. prop.

Sources: Tax Research Foundation, *Tax Systems*, 1940, pp. 248-53; state statutes.

<sup>1</sup>Taxes on operating realty are offset against tax on gross earnings.

<sup>2</sup>The term "corporate excess" is used to mean substantially the value of shares plus indebtedness, less the value of tangible property and of any intangible assets which are separately assessable.

<sup>3</sup>The assessment of public utility property in Maryland has been completely altered by *L. 1941*, ch. 912.

<sup>4</sup>The term "franchise" is used to mean substantially the value of shares less the value of tangible property and of any intangible assets which are separately assessable. In Maryland, it means the value of shares less the value of tangible property.

<sup>5</sup>The Massachusetts law provides for many exemptions not commonly encountered elsewhere. These include, by court construction, land used by a public utility for right of way and overhead construction in public ways. Taxable machinery includes only that used in the supply and distribution of water and in manufacturing. There are also some water companies which are exempt from taxation by charter.

<sup>6</sup>The "special franchise" is defined in New York law to include "the value of the underground pipes or conduits, or the franchise, association or contract, entered into upon, under, or above any street, highway, public place or public waters in connection with the special franchise," and to exclude "the crossing of a street, highway or public place outside the limits of a city or incorporated village where such crossing is less than 250 feet in length, unless such crossing be the continuation of an occupancy of another street, highway or public place." (*New York Tax Law*, Art. 1, sec. 2.)

<sup>7</sup>Real property in New York is defined for tax purposes to include "all real property, whether or not actually included within the meaning of the term, as, for example, telegraph lines, wire, poles, supports and inclosures for electrical conductors."

<sup>8</sup>Wyoming towns and cities are empowered to make their own valuations of railroads and other common carriers, telegraph, and telephone companies.

<sup>9</sup>For city and village tax purposes, all tangible property except rolling stock is locally assessed, subject to review by the state board of equalization.

<sup>10</sup>Statute providing for state assessment refers to owners of "plant or equipment . . . for the production, transmission, delivery or furnishing of heat, light, water or power . . ."

<sup>11</sup>Statute providing for state assessment refers to "electric power and transmission lines."

<sup>12</sup>Statute providing for state assessment refers to "heat, light and power companies."

TABLE 18. AGENCIES ASSESSING SPECIAL PROPERTY TAXES ON MINES AND MINERAL DEPOSITS IN THE SEVERAL STATES, JANUARY 1, 1941

Property to which Applicable	Tax Base			In Lieu of General Property Taxes on What Property?
	Capital Value	Gross Proceeds	Net Proceeds	
Ariz. .... Producing mines	State Tax Com'n	—	—	Not specified <sup>1</sup>
Colo. .... All mines and mining claims except coal, iron, asphaltum, quarries and nonproducing mines <sup>2</sup>	—	County assessor <sup>2</sup>	—	All except surface improvements and machinery
Idaho. .... All mines and mining claims	—	—	County assessor <sup>1</sup>	All except surface rights having a value for non-mining purposes, surface improvements, structures, and machinery
La. .... Oil, gas, and sulfur leases or rights	—	—	—	Value added to land by reason of mineral contents
Mich. .... Oil and gas mines and rights therein	State Tax Com'n	—	La. Dept. of Rev.	All except machinery, appliances, pipe lines, tanks, and other equipment
Mont. .... All mines and mining claims	—	—	State Bd. of Equalization <sup>1</sup>	All except surface rights having a value for non-mining purposes, surface improvements, structures, machinery, and supplies
Nev. .... All mines and mining claims	— <sup>5</sup>	—	Nev. Tax Com'n <sup>5</sup>	All except improvements, structures, machinery, equipment, and supplies
N.M. .... All mineral property and interests therein	State Tax Com'n <sup>6</sup>	—	State Tax Com'n <sup>6</sup>	Not specified
Okl. .... Asphalt, lead, zinc, jack, gold, silver, copper, oil, and gas mines and rights and privileges pertaining thereto	—	Okl. Tax Com'n	—	All except surface rights having a value for non-mining purposes and machinery, and property not actually necessary and being used in production; buildings, water and fuel systems, ice plants, and gasoline extraction plants; and mineral products which have been held in storage for more than a year
S.C. .... Operating mines	—	Local board of assessors	—	All except the land

TABLE 18—*Concluded*

Property to which Applicable	Tax Base				In Lieu of General Property Taxes on What Property?
	Capital Value	Gross Proceeds	Net Proceeds	Physical Production	
Utah.....Metalliciferous mines and claims	State Tax Com'n <sup>1</sup>	—	State Tax Com'n <sup>2</sup>	—	All property upon or used in connection with a mine
Non-metalliciferous mines and claims	State Tax Com'n	—	—	—	All property upon or used in connection with a mine
Wisc.....Land containing lead and zinc	— <sup>3</sup>	Assessor's incomes <sup>4</sup>	—	—	All except buildings, machinery, equipment, stores and other personal property
Wyo.....Producing mines	—	State Board of Equalization	—	—	Land

Sources: Tax Research Foundation, *Tax Systems, 1940*, p. 229; state statutes.

<sup>1</sup>In practice, plant and machinery are assessed by the county assessor and the State Tax Commission deducts their assessed valuation from the total value of mines. (Letter from D. C. O'Neil, Chairman, Arizona State Tax Commission, dated Apr. 1, 1934.) Miners earning not over \$5000 a year are considered nonproductive. (*Report of the Investigating Committee of the Government Units, 1934*, p. 8.)

<sup>2</sup>One-fourth of the gross proceeds if gross proceeds are not over one-fourth of net proceeds; otherwise on net proceeds.

<sup>3</sup>Nonproducing mines are defined as those whose gross production does not exceed \$5000 per annum. County assessors are to assess nonproducing mines at a value per acre not to exceed that of the lowest valued producing mine in the same locality.

<sup>4</sup>In addition to net proceeds, the land of a mine or mining claim, when not used for other than mining purposes, is to be locally assessed at the price paid the United States if acquired under the U. S. mining laws; otherwise (in Idaho) at a value of between \$1 and \$5 per acre.

<sup>5</sup>In addition to net proceeds, each patented mine is to be assessed by the local assessor at not less than \$500, but the county board of equalization is to strike such assessment off the roll if satisfied that at least \$100 was spent in development work on the mine in the preceding year.

<sup>6</sup>The tax commission is given the option of assessing either the full capital value of a mine or its net proceeds. Ordinarily, it is used for patented mines, oil and gas mines and the other for all other mines, or all may be assessed alike.

<sup>7</sup>The tax on capital value applies only to surface rights having a value for non-mining purposes, improvements, machinery, supplies, and other personal property. The land is assessed by the State Tax Commission at \$5 per acre and the net proceeds at twice their value. The sum of these items is taxed at general property tax rates.

<sup>8</sup>In addition to gross proceeds (which are placed in the tax rolls at one-fifth their value), the land is assessed by the assessor of incomes at such value as it would have if devoid of minerals.



TABLE 19. AGENCIES ASSESSING SPECIAL PROPERTY TAXES ON FORESTS IN THE SEVERAL STATES, JANUARY 1, 1941

	Annual Land Taxes		Yield Taxes	Declassification Taxes		
	Ad Valorem	Specific		On Stumpage Value	On Tax Differential	On Value Increment
Ala.....	St. Revenue Com'r and Forestry Com'n <sup>1</sup>	—	St. Revenue Com'r and Forestry Com'n	St. Revenue Com'r and Forestry Com'n	—	—
Conn.....	Town assessors <sup>2</sup>	—	Town assessors <sup>3</sup>	—	—	Town assessors <sup>3</sup>
Idaho.....	County assessor <sup>4</sup>	County assessor <sup>4</sup>	County assessor and St. Cooperative Bd. of Forestry <sup>5</sup>	St. Cooperative Bd. of Forestry	St. Cooperative Bd. of Forestry <sup>6</sup>	—
Ind.....	—	Twp. assessor	—	—	—	Twp. assessor
Iowa.....	—	Local assessor	—	—	—	—
La.....	Com'r of Conservation and parish police jury <sup>1</sup>	—	Com'r of Conservation with approval of parish police jury and La. Dept. of Revenue	—	Com'r of Conservation <sup>6</sup>	—
Mass.....	Town or city assessors	—	Town or city assessors	Town or city assessors	—	—
Mich.....	Woodlots—local assessor <sup>4</sup>	Woodlots—local assessor <sup>4</sup> and all forests—local assessor	Woodlots—local assessor; com. forests—St. Dept. of Conservation	Woodlots—local assessor; com. forests—St. Dept. of Conservation (plus specific acreage tax)	—	—
Minn.....	—	Unspecified	County bd. of com'r's and St. Com'r of Conservation	County bd. of com'r's and St. Com'r of Conservation	Local assessor <sup>6</sup>	—
Miss.....	County assessor	—	State Tax Commission	—	—	—
N.H.....	Town or city assessors	—	Town or city assessors <sup>7</sup>	—	—	—
N.Y.....	Town or city assessor <sup>8</sup>	—	Town or city assessor	Town or city assessor	—	—
Ohio.....	County auditor <sup>9</sup>	—	—	—	—	—

TABLE 19—Concluded

	Annual Land Taxes		Yield Taxes		Declassification Taxes		
	Ad Valorem	Specific			On Stumpage Value	On Tax Differential	On Value Increment
Ore.....	—	County assessor	St. Bd. of Forestry	—	—	Unspecified <sup>6</sup>	—
Vt. ....	Town assessors <sup>10</sup>	Town assessors	Town assessors	—	—	—	—
Wash. <sup>11</sup> .....	—	County assessor	County assessor and St. Forestry Bd. <sup>11</sup>	—	—	County assessor or St. Forestry Bd. <sup>12</sup>	—
Wis. ....	—	Local assessor	St. Com'r of Tax'n and St. Conservation Com'n	—	—	State Com'r of Tax'n <sup>14</sup>	—

Sources: Louis S. Murphy, *State Forest Tax Law Digest of 1939*, state statutes; assessed valuation, once determined, remains unchanged throughout all or a major portion of the period of classification.

<sup>10</sup>Under certain circumstances this tax applies to the trees as well as the land. The assessed valuation, once fixed, remains unchanged for relatively long periods.

<sup>11</sup>This tax is not applicable to forests classified under the 1929 law. If the land is worth less than a certain amount per acre, the tax is ad valorem; otherwise it is specific.

<sup>12</sup>This tax is assessed only after declassification because of violation of contract, improper use, or request of the owner.

<sup>13</sup>This is not, strictly speaking, a yield tax, although it produces comparable results. The law provides that the timber shall be exempt from general property taxes except in the year of cutting.

<sup>14</sup>The assessment may not exceed that immediately prior to classification.

<sup>15</sup>This tax applies to timber and land. The rate is half the general property tax rate.

<sup>16</sup>The law differentiates between forests stocked with trees under 15 years old and those stocked with older trees. The value of the trees is included in the assessed valuation of the land, and an annual land tax on young forests is ad valorem, while on older forests it is specific. The assessed valuation, once determined, remains fixed until 1950.

<sup>17</sup>The Washington system of taxation of forests has apparently been completely revised by *L. 1941*, ch. 120.

<sup>18</sup>If dissatisfied with a taxpayer's personal declaration, either the state or the local agency may fix a valuation. If both revalue, the state board's valuation is controlling.

<sup>19</sup>The assessment is made by the county assessor when the declassification is ordered by the Tax Commission. Failure to correct the property or to use it primarily for forest crop production and by the State Forestry Board when declassification results from the cancellation of an agreement by the board.

<sup>20</sup>This tax is imposed in case of voluntary withdrawal by the owner or declassification by an order of the Conservation Commission issued more than five years after the land was first classified. A somewhat different declassification tax (not tabulated) is imposed in case of involuntary declassification before the expiration of the five-year period.

TABLE 20. AGENCIES ASSESSING SPECIAL PROPERTY TAXES ON MOTOR VEHICLES IN THE SEVERAL STATES, JANUARY 1, 1941

	Vehicles to which Applicable	Base of Tax	Administration of Tax <sup>1</sup> Valuation	Collection	In Lieu of what Other Taxes?
Ariz. ....	Registered vehicles	Designated percentages of mfg. list price	— <sup>2</sup>	County assessor	All other ad valorem taxes
Calif. ....	Motor vehicles subject to registration <sup>3</sup>	Market value	State Department of Motor vehicles		All other ad valorem taxes
Colo. ....	Registered motor vehicles, trailers, and semi-trailers not publicly owned	Designated percentages of factory list price	Contract and common carriers by State Tax Commission; others by county clerk <sup>4</sup>		All other ad valorem taxes
Me. ....	Registered motor vehicles <sup>5</sup>	Maker's list price <sup>6</sup>	City or town tax collector		All other city and town taxes
Mass. ....	Registered motor vehicles and trailers <sup>7</sup>	Designated percentages of mfg. list price <sup>8</sup>	Com'r of Corps. & Taxation <sup>9</sup>	City or town tax collector <sup>9</sup>	General property taxes
N.H. ....	Registered motor vehicles <sup>10</sup>	Maker's list price <sup>6</sup>	City treasurer or town clerk		General property taxes
Wash. ....	Motor vehicles used for the convenience or pleasure of the owner <sup>11</sup>	Market value	State Tax Commission <sup>12</sup>	County auditor	All other ad valorem taxes
Wyo. ....	Registered motor vehicles <sup>13</sup>	Designated percentages of factory price	County treasurer		All other ad valorem taxes

Sources: State constitutions and statutes.

<sup>1</sup>This tax is imposed only on persons applying for registration and, except in the New England states, is collected by the officer who receives the application or issues the license plates. Under these typical circumstances the assessment process does not involve a problem of discovery. In Maine and New Hampshire, evidence that the special property tax has been paid must be presented with the application for registration of the vehicle. Massachusetts is therefore the only state in the group in which a vehicle may be registered without prepayment of the special property tax. In the latter state, the motor vehicle registrar is required to notify the Commissioner of Corporations and Taxation of all registrations, and the Commissioner is required to transmit this information to local assessors.

<sup>2</sup>The constitution specifies that collection is to be by the registering officer, who is now the county assessor, but the officer making the valuation had not been designated at the time the table was compiled.

<sup>3</sup>Not including motor vehicles owned by the United States, a foreign government, the state, or any of its political subdivisions.

<sup>4</sup>The State Motor Vehicle Supervisor is to designate a suitable compilation of factory list prices, which is to be followed by these agencies wherever applicable.

<sup>5</sup>Except those owned by charitable, benevolent, literary, or scientific organizations and used exclusively in carrying on charitable, benevolent, literary, or scientific work in the state.

<sup>6</sup>The tax rate decreases as the age of the vehicle increases. In other states, the rate is constant but the base decreases with age.

<sup>7</sup>Not including vehicles owned by the state or its political subdivisions; those owned by automobile manufacturers, dealers, and repair men and used in connection with their business; those owned by financial corporations, literary, charitable, and scientific institutions, agricultural societies, veterans organizations, fraternal societies, and religious organizations.

<sup>8</sup>The Commissioner of Corporations and Taxation is directed to determine the value of each motor vehicle at certain percentages of list price. However, local boards of assessors (and the Commissioner, himself, in the case of vehicles registered by nonresidents and not customarily kept in the state) may reduce this valuation if they consider it excessive.

<sup>9</sup>The Commissioner of Corporations and Taxation is the collector of the tax on vehicles registered by nonresident individuals and by business concerns having no principal place of business in the state, provided such vehicles are not customarily kept in any particular Massachusetts municipality.

<sup>10</sup>Except those purchased out of the proceeds of property which has been assessed for taxation during the calendar year and those constituting the stock in trade of a manufacturer or bona fide dealer.

<sup>11</sup>Excluding vehicles registered as motor vehicle trailers or semi-trailers, motor vehicles for hire, auto stages, auto stage trailers, motor trucks, or motor truck trailers, those registered under dealers' licenses, and those entitled to an "exempt" motor vehicle license.

<sup>12</sup>In consultation with the Association of County Assessors.

<sup>13</sup>Not including vehicles owned by governmental units and vehicles owned by veterans who have not fully utilized their veterans' exemption on other property.

## F. Office Combinations Involving Assessors

MANY assessors hold more than one office. Although it is virtually impossible to identify all such assessors, the following table indicates most of the combinations which have been effected by, or under the authority of, state laws. Kansas and Nebraska "county assessors," who are classified as supervisors rather than original assessing officers elsewhere in the volume, are included in the table.

TABLE 21. PRINCIPAL OFFICE COMBINATIONS INVOLVING ASSESSORS OF PRIMARY ASSESSMENT DISTRICTS, BY STATES AND TYPES OF GOVERNMENTAL UNITS, 1940

Governmental Unit	No. of Such Units	Offices Combined with Assessor's
Conn. .... Consolidated town and city (New London) .....	1	Tax collector
Town (Stratford) .....	1	Manager and finance director
Colo. .... Consolidated city and county (Denver)	1	Manager of revenue
Ga. .... Counties designated by state legislature	65	County tax collector
Ill. .... Counties with population under 150,000 and no townships .....	17	County treasurer
Townships containing a city with population over 50,000 and not in a county of over 150,000 <sup>1</sup> .....	1	County clerk
Ind. .... Townships with population under 5,000	918	Township trustee
Kan. .... Counties with population under 65,000 <sup>2</sup> .....	100	County clerk <sup>3</sup>
Townships .....	1550	Township trustee
Me. .... Towns so electing <sup>4</sup> .....	391	Selectmen
Plantations .....	65	Selectmen
Md. .... Counties unless otherwise provided by state legislature .....	21	County commissioners
Mass. .... Towns so electing <sup>5</sup> .....	28	Selectmen
Mich. .... Townships .....	1266	Township supervisor
4th-class city wards .....	62	Ward supervisor
Miss. .... Counties with population under 15,000 so electing <sup>6</sup> .....	—	County sheriff
Mo. .... Townships .....	345	Township clerk
Mont. <sup>7</sup> .... County (Petroleum) .....	1	County supt. of schools
County (Sheridan) .....	1	County clerk and recorder, county treasurer
Counties (McCone, Musselshell) .....	2	County clerk and recorder
Nebr. .... Counties so electing <sup>8</sup> .....	41	County clerk
Nev. .... Counties .....	4	Sheriff
County (Ornsby) .....	1	Township constable
N.H. .... Towns .....	223	Selectmen
N.C. <sup>9</sup> .... Counties .....	12	County accountant
Counties .....	7	County auditor
Counties .....	26	County auditor, county accountant
Counties .....	5	Register of deeds
Ohio. .... Counties .....	88	County auditor
S.C. .... School districts <sup>10</sup> .....	144	School trustees
Tenn. .... County (Moore) .....	1	County trustee

TABLE 21—Concluded

Governmental Unit	No. of Such Units	Offices Combined with Assessor's
Texas..... Counties with population under 10,000	91	County tax collector, county sheriff
All other counties.....	163	County tax collector
Utah..... County (Iron) <sup>11</sup> .....	1	County surveyor
Wash. .... Counties with population under 3,300..	1	County treasurer

Sources: State statutes; Bureau of the Census, *Sixteenth Census of the United States, 1940* (press releases, series P-2 and P-2a); sources cited in footnotes.

<sup>11</sup>If so provided by popular election. According to the 1940 census, there are three townships in this category, but only Springfield has so elected.

<sup>12</sup>Unless otherwise provided by popular election. Leavenworth and Bourbon counties have so provided. (Kansas Legislative Council, *Assessment of Real Estate in Kansas*, July 1940, p. 11.)

<sup>13</sup>In 33 counties this officer also serves as purchasing agent. (Kansas League of Municipalities, *Kansas Directory of Public Officials, 1939-1940*.)

<sup>14</sup>Information provided by the Executive Secretary of the Maine Municipal Association in a letter dated May 4, 1940. All boards of assessors on which there was at least one member who was not a selectman were excluded.

<sup>15</sup>Comparison of 1940 selectmen with 1940 assessors revealed 28 instances in which all three selectmen were also assessors, 12 in which two selectmen were assessors, and 33 in which one assessor was a selectman.

<sup>16</sup>These counties may combine the offices of assessor and sheriff by popular election, but apparently none of the 14 eligible under the 1940 census has done so. (*Mississippi Blue Book, 1935-1937*, p. 73.)

<sup>17</sup>This consolidation is effected by vote of the county commissioners. For counties where consolidations have been effected, see *Montana Taxpayer*, June 1940, p. 4, December 1940, p. 4.

<sup>18</sup>*Report of the State Tax Commissioner, 1940*, pp. 119-22.

<sup>19</sup>The county commissioners in any county having an "auditor, tax clerk, county accountant, all-time chairman of the board of county commissioners, or other similar officer" may appoint any such officer as tax supervisor (county assessor). At least 70 of the 100 counties have effected some such combination of offices. The table shows only the more common combinations, as indicated by a directory of county officials published by the North Carolina Legislative Reference Library (January 1939) and a directory of tax supervisors prepared by the North Carolina Institute of Government (May 9, 1938).

<sup>20</sup>Data are incomplete.

<sup>21</sup>The commissioners of any county may consolidate county offices. This is the only consolidation involving an assessor's office revealed by the *Utah Official Roster, 1939-1940*, as prepared by the Secretary of State.

## G. Boards of Assessors

TABLE 22 classifies the assessment districts located on Figure 3 by types of governmental units and sizes of local assessment boards.

TABLE 22. NUMBER AND SIZE OF BOARDS OF ASSESSORS IN PRIMARY ASSESSMENT DISTRICTS, BY STATES AND TYPES OF GOVERNMENTAL UNITS, 1940

Type of Unit		Membership of Board							Total
		2	3	4	5	6	7	8 or more	
Conn. <sup>1</sup> .....	Unconsolidated towns.	1	146	—	1	—	—	—	160
	Consolidated towns and cities.....	3	4	1	3	—	—	—	
	Consolidated town and borough.....	1	—	—	—	—	—	—	
Del.....	Counties.....	—	2	1	—	—	—	—	3
D. of C. <sup>2</sup> ....	City (Washington)...	—	—	—	—	—	—	1	1
Ill.....	County (St. Clair)....	—	—	—	1	—	—	—	1
La.....	Parish (Orleans).....	—	—	—	—	—	1	—	—

TABLE 22—*Concluded*

Type of Unit	Membership of Board							Total
	2	3	4	5	6	7	8 or more	
Me. <sup>2</sup> ..... Towns.....	—	405	—	10	—	3	—	504
Cities.....	—	20	—	1	—	—	—	
Plantations.....	—	65	—	—	—	—	—	
Md..... Counties.....	1	17	—	3	—	2	—	23
Mass. <sup>2</sup> ..... Towns.....	—	309	—	3	—	—	—	351
Cities.....	—	37	—	2	—	—	—	
Mich. <sup>4</sup> ..... Cities.....	—	4	1	—	—	—	—	5
N.H. <sup>3</sup> ..... Towns.....	—	222	—	—	1	—	—	235
Cities.....	—	11	—	—	—	—	—	
Unorganized area.....	—	1	—	—	—	—	—	
N.J. <sup>5</sup> ..... Townships.....	1	31	1	—	—	—	—	130
Towns.....	1	4	—	—	—	—	—	
Cities.....	7	25	2	3	—	—	1	
Villages.....	—	1	—	—	—	—	—	
Boroughs.....	2	51	—	—	—	—	—	944
N.Y. <sup>6</sup> ..... County (Nassau).....	—	—	—	1	—	—	—	
Towns.....	—	916	—	—	—	—	—	
Cities.....	3	22	1	—	—	1	—	149
Pa..... Counties.....	—	5	—	—	—	2	—	
Boroughs.....	43	42	28	17	6	3	3	39
R.I. <sup>3</sup> ..... Towns.....	—	30	—	2	—	—	—	
Cities.....	—	7	—	—	—	—	—	742
S.C. <sup>8</sup> ..... Counties.....	—	—	—	—	—	—	2	
Townships.....	—	260	—	—	—	—	—	
Towns and cities.....	—	80	—	—	—	—	—	
School districts.....	—	392	—	2	—	—	6	2
Va. <sup>9</sup> ..... Cities.....	—	2	—	—	—	—	—	
Vt..... Towns.....	—	237	—	1	—	—	—	251
Cities.....	—	8	—	—	—	—	—	
Unorganized areas.....	—	5	—	—	—	—	—	
Wis..... Cities.....	—	1	—	—	—	—	1	2
	63	3362	35	50	7	12	14	3543

Sources: State statutes; *The Municipal Year Book, 1941*, pp. 586-641; sources cited in footnotes.

<sup>1</sup>Data include the city of Bristol and the town of Greenwich, which are soon to have single assessors but now have three-member boards. Data were provided by Dr. George B. Clarke, Research Tax Director, Connecticut State Tax Department.

<sup>2</sup>Although the *Code of the District of Columbia* appears to provide for a single eight-member board, the law is decidedly ambiguous. In practice there are two boards—one of five members which assesses real estate and one of three members which assesses personally. These eight persons, together with the District Assessor and the Deputy Assessor, sit together to review the valuations established by the two assessment boards.

<sup>3</sup>Information was furnished by the State Tax Department.

<sup>4</sup>Information was provided by the Michigan Municipal League.

<sup>5</sup>Data were compiled from the *Ninth Annual Report of the State Tax Department, 1940*, pp. 30-47.

<sup>6</sup>Information on town boards was provided by Frank C. Moore, Executive Secretary, The Association of Towns of the State of New York, in a letter dated July 24, 1940. Information on city boards was derived chiefly from reports of the Bureau of Municipal Information, Conference of Mayors and Other Municipal Officials of the State of New York.

<sup>7</sup>In 4th- to 8th-class counties each ward within a borough elects an assessor but the several assessors are required to act as a board. (*Purdson's Pennsylvania Statutes*, Title 72, sec. 5020-422.) The number of wards in such boroughs was derived chiefly from the *Pennsylvania Manual, 1930*, pp. 174-325.

<sup>8</sup>A three-member board of assessors is found in the vast majority of South Carolina assessment districts and is assumed to exist wherever information to the contrary is not at hand. However, our data on the number of districts and the size of boards are incomplete for this state.

<sup>9</sup>The cities tabulated are Norfolk and Richmond, both of which have permanent boards of real estate assessors. In the 22 other cities and the 100 counties, a temporary agency (usually a board) is constituted quadrennially or less frequently for the purpose of reassessing real estate.

## H. Selection and Tenure of Original Assessment Personnel

TABLE 23 classifies the assessment districts located on Figure 7, while Tables 24 and 25 supplement Figures 8 and 9, respectively.

TABLE 23. NUMBER OF PRIMARY ASSESSMENT DISTRICTS IN WHICH ASSESSORS ARE APPOINTED TO OFFICE, BY STATES AND TYPES OF GOVERNMENTAL UNITS, 1940

	Civil Counties <sup>1</sup>	Townships	New England Towns	Cities and Urban Towns	Villages and Boroughs	School Districts	Unorga- nized Areas	Total
Colo. ....	1	—	—	—	—	—	—	1
Conn. <sup>2</sup> .....	—	—	9	12	1	—	—	22
Del. ....	3	—	—	—	—	—	—	3
D. of C. ....	—	—	—	1	—	—	—	1
Iowa. ....	—	—	—	16	—	—	—	16
Kan. ....	—	—	—	89	—	—	—	89
Me. ....	—	—	—	21	—	—	1	22
Md. ....	2 <sup>3</sup>	—	—	1	—	—	—	3
Mass. <sup>4</sup> .....	—	—	7	35	—	—	—	42
Mich. <sup>5</sup> .....	—	—	—	95 <sup>6</sup>	—	—	—	95
Minn. ....	1	—	—	1	—	—	35	109
Mo. ....	—	—	—	1	—	—	—	1
Nebr. <sup>7</sup> .....	—	—	—	20	—	—	13	33
N.H. ....	—	—	—	8 <sup>8</sup>	—	—	1	9
N.J. <sup>9</sup> .....	—	31	—	69	53	—	—	153
N.Y. ....	1 <sup>10</sup>	49	—	48 <sup>11</sup>	—	—	—	98
N.C. ....	100	—	—	—	—	—	—	100
N.D. ....	—	—	—	114	—	—	—	114
Pa. ....	7	—	—	—	—	—	—	7
R.I. <sup>12</sup> .....	—	—	1	7	—	—	—	8
S.C. ....	1	260	—	80	—	400	—	741
S.D. ....	—	—	—	140	—	—	—	140
Tenn. <sup>13</sup> .....	1	—	—	—	—	—	—	1
Vt. ....	—	—	—	3	—	—	5	8
Va. <sup>14</sup> .....	2	—	—	2	—	—	—	4
Wis. ....	—	—	—	30	—	—	—	30
	119	340	17	865	54	400	55	1850

Sources: State statutes; *The Municipal Year Book, 1941*, pp. 43-80; sources cited in footnotes.

<sup>1</sup>Includes consolidated cities and counties.

<sup>2</sup>Data were supplied by the Office of the Connecticut Tax Commissioner, under date of June 11, 1940. Among the 9 towns is one with two elected assessors and one appointed assessor.

<sup>3</sup>In addition to the two counties listed (Frederick and Harford), one other (Anne Arundel) has a so-called Department of Assessments which is staffed with appointed personnel. However, it appears that the county commissioners retain the authority of assessors in the latter county.

<sup>4</sup>Data were provided by the Commissioner of Corporations and Taxation, June 26, 1940.

<sup>5</sup>Data on cities of less than 5000 population were furnished by the Michigan Municipal League under dates of June 12, 1940, and Dec. 20, 1940.

<sup>6</sup>Data were provided by the League of Minnesota Municipalities, June 12, 1940.

<sup>7</sup>The Nebraska statutes provide for appointment by county assessors of "precinct, ward or township assessors" in counties of over 150,000 population and of as many assessors as may be required in cities with over 4000 inhabitants. (*Compiled Laws*, sec. 39-212.) There are 10 cities with populations exceeding 4000 in 1940, excluding Omaha, which is in a county of over 150,000. The one county of over 150,000 contains one city and 13 precincts.

<sup>8</sup>Information was provided by Professor Lashley G. Harvey, University of New Hampshire, in a letter dated June 10, 1940.

<sup>9</sup>Information was provided by Dr. Charles R. Erdman, Director of Municipal Aid Administration, State of New Jersey, in a letter dated Aug. 21, 1940.

<sup>10</sup>The chairman of a five-member board is elected.

<sup>11</sup>Information was provided largely by the New York Conference of Mayors in the form of a report dated June 22, 1937. The data include three cities in which only one of three members of a board is appointed and one in which two out of three members are appointed.

<sup>12</sup>Information was provided by the Rhode Island Tax Administrator, July 8, 1940.

<sup>13</sup>By *Private Acts of 1937*, ch. 881, the legislature provided for the appointment of the assessor of Chester County by the quarterly court. The 1940 census removes this county from the population range to which the act applies, but the incumbent assessor was appointed.

<sup>14</sup>The governmental units tabulated are Albemarle and Henrico counties and Norfolk and Richmond cities. In the two counties there is an appointed official performing the functions of commissioners of revenue, while the two cities have permanent appointed boards of real estate assessors and elected commissioners of revenue. The other 98 counties and 22 cities have appointed real estate assessors at intervals of four or more years, who function for only a year at a time.

TABLE 24. TERMS OF ASSESSORS OF 24,441 PRIMARY ASSESSMENT DISTRICTS, BY STATES AND TYPES OF GOVERNMENTAL UNITS, 1940<sup>1</sup>

Type of Unit	Length of Term in Years						Total
	1	2	3	4	5	6 Indefinite	
Ala. .... Counties .....	—	—	—	67	—	—	67
Ariz. .... Counties .....	—	14	—	—	—	—	14
Ark. .... Counties .....	—	75	—	—	—	—	75
Calif. .... Counties <sup>2</sup> .....	—	—	—	58	—	—	58
Colo. .... Counties <sup>2</sup> .....	—	62	—	—	—	1	63
Conn <sup>3</sup> .... Towns .....	2	13	73	29	21	3	156
Cons. towns and cities	—	4	1	3	3	1	
Cons. town and borough	—	1	—	—	—	—	
Del. .... Counties .....	—	—	—	2	—	1	3
D. of C. .... City .....	—	—	—	—	—	1	1
Fla. .... Counties .....	—	—	—	67	—	—	67
Ga. .... Counties .....	—	—	—	159	—	—	159
Idaho. .... Counties .....	—	44	—	—	—	—	44
Ill. .... Counties .....	—	—	—	18	—	1	1402
Townships .....	—	—	—	1383	—	—	
Ind. .... Townships .....	—	—	—	1015	—	—	1015
Iowa. .... Townships .....	—	1607	—	—	—	—	2538
Towns .....	—	821	—	—	—	—	
Cities <sup>4</sup> .....	—	100	—	—	—	10	
Kan. .... Townships .....	—	1550	—	—	—	—	1639
Cities .....	89	—	—	—	—	—	
Ky. .... Counties .....	—	—	—	120	—	—	120
La. .... Parishes <sup>5</sup> .....	—	—	—	64	—	—	64
Me. .... Cities <sup>6</sup> .....	2	—	19	—	—	—	87
Plantations .....	—	—	65	—	—	—	
Unorganized area .....	—	—	—	—	—	1	
Md. .... Counties .....	—	2	—	13	—	6	22
City .....	—	—	—	—	—	1	
Mass. <sup>6</sup> .... Towns .....	—	—	284	—	—	—	302
Cities .....	—	—	14	—	—	2	
Mich. .... Townships .....	1266	—	—	—	—	—	1445
Cities <sup>7</sup> .....	29	22	7	1	—	54	
City wards .....	62	—	—	4	—	—	
Minn. .... County .....	—	1	—	—	—	—	2520
Townships .....	—	1879	—	—	—	—	
Cities <sup>8</sup> .....	7	14	—	—	—	5	
Villages .....	—	578	—	—	—	—	
Borough .....	—	1	—	—	—	—	
Unorganized areas .....	35	—	—	—	—	—	
Miss. .... Counties .....	—	—	—	82	—	—	82
Mo. .... Counties .....	—	—	—	90	—	—	436
Townships .....	—	345	—	—	—	—	
City .....	—	—	—	1	—	—	
Mont. .... Counties .....	—	—	—	56	—	—	56
Nebr. .... Townships .....	—	476	—	—	—	—	1938
Precincts .....	—	962	—	—	—	—	
City wards .....	—	500	—	—	—	—	
Nev. .... Counties .....	—	—	—	17	—	—	17
N.H. .... Towns .....	—	—	223	—	—	—	235
Cities <sup>9</sup> .....	1	—	6	—	—	4	
Unorganized area .....	—	—	—	—	—	1	
N.J. .... Townships .....	—	—	—	235	—	—	566
Towns .....	—	—	—	23	—	—	
Cities .....	—	—	—	50	—	1	
Villages .....	—	—	—	1	—	—	
Boroughs .....	—	—	—	255	—	—	
N.M. .... Counties .....	—	31	—	—	—	—	31
N.Y. .... Townships <sup>10</sup> .....	—	48	—	—	—	—	81
Cities <sup>11</sup> .....	2	8	4	5	—	2	
N.C. .... Counties .....	100	—	—	—	—	—	100
N.D. .... Townships .....	—	1470	—	—	—	—	1827
Towns .....	—	1	—	—	—	—	
Cities .....	—	114	—	—	—	—	
Villages .....	222	—	—	—	—	—	
Unorganized areas .....	—	80	—	—	—	—	



TABLE 24—Concluded

Type of Unit	Length of Term in Years						Total
	1	2	3	4	5	Indefinite	
Ohio.....Counties.....	—	—	—	88	—	—	88
Okla.....Counties.....	—	77	—	—	—	—	77
Ore.....Counties.....	—	—	—	36	—	—	36
Pa.....Counties <sup>2</sup> .....	—	—	—	5	—	2	2407
Townships.....	—	—	—	1383	—	—	
Town.....	—	—	—	1	—	—	
City wards.....	—	—	—	285	—	—	
Boroughs.....	—	—	—	731	—	—	
R.I. <sup>12</sup> .....Towns.....	1	7	6	5	1	9	36
Cities.....	—	1	2	1	—	3	
S.C.....Counties.....	—	1	—	1	—	—	742
Townships.....	—	260	—	—	—	—	
Municipalities.....	7	73	—	—	—	—	
School districts.....	—	400	—	—	—	—	
S.D.....Townships.....	1163	—	—	—	—	—	1494
Towns.....	163	—	—	—	—	—	
Cities.....	—	—	—	—	—	140	
Unorganized areas.....	—	28	—	—	—	—	
Tenn.....Counties.....	—	1	—	91	—	—	115
Civil districts.....	—	—	—	23	—	—	
Texas.....Counties.....	—	254	—	—	—	—	254
Utah.....Counties.....	—	—	—	29	—	—	29
Vt.....Towns.....	—	—	238	—	—	—	247
Cities.....	—	—	4	—	—	—	
Unorganized areas.....	5	—	—	—	—	—	
Va. <sup>13</sup> .....Counties.....	—	—	—	98	—	2	124
Cities.....	—	—	—	24	—	—	
Wash.....Counties.....	—	—	—	39	—	—	39
W.Va.....Counties.....	—	—	—	55	—	—	55
Wis.....Townships.....	1237	42	—	—	—	—	1445
Cities <sup>14</sup> .....	61	64	1	2	—	7	
Villages <sup>14</sup> .....	26	5	—	—	—	—	
Wyo.....Counties.....	—	—	—	23	—	—	23
	4480	11,976	947	6738	4	54	24,441

Sources: State statutes; sources cited in footnotes.

<sup>1</sup>Assessment districts not listed in this table are of two types: (1) those for which information on terms was not available to the committee; (2) those served by a board of assessors whose members hold terms of unequal lengths.

<sup>2</sup>Includes one consolidated city and county (or parish).

<sup>3</sup>Information was chiefly derived from correspondence with Dr. George B. Clarke, Research Tax Director, Office of the Connecticut Tax Commissioner, under date of June 21, 1940.

<sup>4</sup>Under an act of the 1941 legislature, the Des Moines assessor is to be appointed to hold office until Jan. 2, 1946, and for six-year terms thereafter.

<sup>5</sup>Information was provided by the Maine Municipal Association. Maine towns may elect assessors for either one- or three-year terms and accurate information is not available on the number which have adopted each of these alternatives. However, the Executive Secretary of the Association writes (July 10, 1940): "It is very safe to say that the one-year term is the general rule and the three-year term rather uncommon."

<sup>6</sup>The assessors of Massachusetts towns and cities usually serve terms of three years, although appointed town assessors may apparently serve for shorter terms (*General Laws*, ch. 41, sec. 25). Furthermore, a town which has decided prior to 1934 to have its selectmen serve as assessors may elect such selectmen for one-year terms. The towns tabulated are those not included in Table 21, p. 383. The terms of city assessors are usually specified in their charters and hence are not necessarily governed by the general laws.

<sup>7</sup>Information was provided by the Michigan Municipal League, Dec. 20, 1940.

<sup>8</sup>Information was provided on cities with 1930 populations of 5000 to 25,000 by the League of Minnesota Municipalities in a letter dated August 7, 1940.

<sup>9</sup>Information was provided by Professor Lashley G. Harvey, of the University of New Hampshire, in a letter dated June 10, 1940.

<sup>10</sup>Most New York towns have elected boards of assessors, one member of which serves a two-year term while two serve four-year terms. Appointed assessors serve two-year terms, except in first-class towns of Erie County, where they serve six-year terms. (*Consolidated Laws*, ch. 63, secs. 20-1 (b) to 24.)

<sup>11</sup>Information was obtained principally from *Local Laws of the Cities in the State of New York*, 1925 to 1939, inclusive.

<sup>12</sup>Information was provided by the Rhode Island Tax Administrator, July 8, 1940.

<sup>13</sup>Data relate to the commissioners of revenue. Members of boards of real estate assessors, when constituted, serve one-year terms.

<sup>14</sup>Data were provided by Bristol Goodman, Research Assistant in Economics, University of Wisconsin, and are based on a study conducted by him in 1938-39.

TABLE 25. NUMBER OF GOVERNMENTAL UNITS PERFORMING THE ASSESSMENT FUNCTION AND HAVING SERVICE-WIDE MERIT SYSTEMS, BY STATES, TYPES OF GOVERNMENTAL UNITS, AND TYPES OF ASSESSMENT DISTRICTS, JANUARY 1, 1941

	Counties	Primary Districts		Active Overlapping Districts <sup>1</sup>	Total
		Townships	Municipalities		
Ala.....	2	—	—	—	2
Ariz.....	—	—	—	1	1
Calif.....	6	—	—	12	18
Conn.....	—	—	3	—	3
D. of C.....	—	—	1	—	1
Fla.....	—	—	—	8	8
Ga.....	—	—	—	2	2
Ill.....	1	—	—	—	1
Iowa.....	—	—	13	—	13
Ky.....	—	—	—	4	4
Md.....	—	—	1	—	1
Mass.....	—	4	39	—	43
Mich.....	—	—	16	—	16
Minn.....	—	—	2	—	2
Mo.....	—	—	1	3	4
Neb.....	—	—	—	1	1
N.J.....	—	5	26	—	31
N.Y.....	1	—	57	5	63
N.D.....	—	—	3	—	3
Ohio.....	88	—	—	—	88
Oregon.....	1	—	—	—	1
Pa.....	—	—	—	13	13
S.D.....	—	—	1	—	1
Tenn.....	—	—	—	2	2
Tex.....	—	—	—	7	7
Va.....	—	—	1	—	1
Wis.....	—	—	7	—	7
	99	9	171	53	337

Sources: Civil Service Assembly of the United States and Canada, *Civil Service Agencies in the United States*, July 1940, pp. 38-59; *Civil Service Assembly News Letter*, December 1940, p. 1.

<sup>1</sup>All overlapping assessment districts listed are municipalities.

## I. Class Specifications for Assessment Personnel

THE following are illustrative of the class specifications which are prepared in connection with position classification projects.

### CITY OF BALTIMORE, MARYLAND<sup>1</sup>

#### Class Title

Manager of the Bureau of Assessment.

#### Duties

To be responsible for the activities of the Bureau of Assessment; to have charge of the administration of the Bureau; to supervise the work of all assessors, clerks and other employees; to make valuations, assessments, revaluations, or reassessments of all real and personal property, both tangible and intangible; to take steps for the discovery and assessment of all unassessed property; to maintain necessary records; to prepare the tax roll; to furnish City Collector necessary information for the preparation of tax bills; and to perform related work as required.

<sup>1</sup> Adapted from an examination announcement issued by the City Service Commission and dated March 9, 1937.

*Qualifications*

Education equivalent to that represented by graduation from high school; preferably successful experience in tax assessment work; preferably a knowledge of law; knowledge of real and personal property values; administrative ability; knowledge of modern office practice; ability to deal with the public and to get along well with others; tact; and good judgment. These tests are open to persons not less than 35 nor more than 50 years of age.

CITY OF NEW HAVEN, CONNECTICUT<sup>2</sup>*Class Title*

President of the Board of Assessors.

*Duties*

Subject to legislative determination of policy and administrative approval: to plan the work and direct the staff of the Assessors' Office; and to do other work as required.

*Examples of typical tasks*

Has charge of the administration of the Assessors' Office, directs the work of assessors in the valuation, assessment, revaluation, or reassessment of real and personal property, both tangible and intangible; takes steps for the discovery and assessment of unassessed property; presides at meetings of the Board of Assessors; has charge of the preparation of the tax roll; publishes annually a notice requiring persons liable to taxation to submit lists of taxable property, and directs the preparation of delinquent lists by the staff of the Assessors' Office, including the imposition of prescribed penalties therefor; presides at hearings to determine ownership and property valuations; determines tax exemptions according to law and frequently examines persons claiming exemptions; assigns and supervises the work of the staff of the assessors' office; supervises the assessment of automobiles; interprets and explains tax and assessment laws to the public, and handles first complaints; sees that proper records are prepared and maintained; occasionally assists in general clerical work.

*Minimum qualifications*

Either (1) education equivalent to graduation from a standard senior high school and five years of satisfactory experience in real and personal property valuations; or (2) any equivalent combination of education and experience; also, thorough knowledge of state and local assessment and taxation laws; knowledge and ability to appraise real and personal property values accurately; knowledge of modern methods and practices in the appraisal of property values, of checking and recording transfers of property, and of preparing and revising assessment maps; ability to analyze and prepare abstracts; knowledge of modern office practices; administrative ability; ability to deal with the public effectively and to get along well with others; good address; firmness; keen observation; good judgment; carefulness; reliability; mental alertness; tact; thoroughness.

<sup>2</sup> Adapted from specifications prepared and published by the New Haven Taxpayers, Inc., December, 1938.

*Additional desirable qualifications*

Education equivalent to graduation from a college or university of recognized standing, preferably with specialization in business administration, law, economics, or a related field.

CITY OF MINOT, NORTH DAKOTA<sup>3</sup>*Class title*

City Assessor.

*General statement of duties*

To be responsible for the appraisal of real and personal property within the city and perform related duties as required.

*Supervision received*

Receives from state law and city ordinances outline of work and legal provisions governing duties; actions are subject to review by the board of equalization.

*Supervision exercised*

Supervises a number of assistants employed during certain periods in the appraisal of personal property by interpreting the application of legal requirements and reviewing decisions concerning special problems.

*Evaluation of duties*

Work involves technical problems in the tax assessment field and requires formulating, initiating, and judging the effectiveness of methods and procedures; and involves responsibility for equitable assessment of property. Errors in judgment on the part of the incumbent or unsatisfactory work of subordinates might result in financial loss to the city.

*Examples of duties*

To appraise real and personal property for the purpose of tax assessment; confer with and advise subordinates regarding work methods and procedures, personally handling complex and unusual cases; receive and adjust complaints involving assessment and other matters arising in the work; enter assessed values in real-estate book prepared and maintained by the county auditor; conduct necessary correspondence and maintain required records incidental to the work of the office; attend meetings of the board of equalization to explain assessments made; and perform related duties as required.

*Minimum qualifications*

*Experience and training.* Five years of successful business experience, not less than three of which shall have been in connection with the handling of real and personal property and preferably graduation from a standard high school; or an equivalent combination of experience and training sufficient to demonstrate competence in the work.

*Specialized knowledge, abilities, skills, and aptitudes.* Thorough knowledge of the methods and techniques of modern business management and of local

<sup>3</sup> Proposed specifications prepared by Public Administration Service, July, 1938.

real and personal property values; knowledge of the methods used in describing real property, of appraisal techniques, and of the laws and ordinances governing the assessment and collection of property taxes; supervisory ability; ability to establish and maintain cooperative relationships with the public and city officials and employees; initiative; tact; integrity; good judgment.

#### CITY OF SAGINAW, MICHIGAN

##### *Class title*

Deputy City Assessor.

##### *Class definition*

*General statement of duties.* Assists the assessor in collecting information affecting the value of real and personal property; and does related work as required.

*Supervision received.* Receives instructions from the city assessor concerning general departmental policies, objectives and plans.

*Supervision exercised.* Assists city assessor in determining policies, objectives, plans, flow of work and assignments to be followed by the draftsmen and clerical assistants engaged in tax assessment work; in the absence of the city assessor, or under his direction, gives specific instructions to each subordinate supervisor prior to each work process and reviews their decisions concerning work methods, coordination, production and results obtained.

*Degree of difficulty.* Work involves varied and difficult technical problems in the tax assessment field; requires assisting the city assessor in formulating, initiating and judging the effectiveness of changes in the present methods and procedures used in the tax assessing division.

*Degree of responsibility.* Place in organization is that of principal assistant to the city assessor, sharing in the responsibility for all activities of the tax assessment division.

##### *Examples of duties*

Making personal inspection and reinspection of real and personal property, sometimes with city assessor, and recording data on which evaluation for assessment purposes is based; rechecking appraisals and descriptions of property in appealed cases; checking building permits for cases of alterations and new constructions; assisting citizens in preparation of personal property report blanks; preparing statistical reports on taxes.

##### *Minimum qualifications*

*Education and experience.* Education equivalent to that represented by graduation from a standard high school and one year of college training in civil engineering, and three years of successful experience in civil engineering or real estate appraisal or assessing.

*Specialized knowledges, abilities, skills and aptitudes.* Knowledge of appraisal technique in determining real estate and personal property values and laws and ordinances governing the assessment and collection of property taxes; knowledge of methods used in describing real estate; knowledge of office procedure; ability to establish and maintain cooperative relations with the general public.

## SAN DIEGO COUNTY, CALIFORNIA

*Class title*

Building Appraiser.

*Class definition*

Under direction of the supervising building appraiser, to appraise buildings and other structures for assessment purposes; and to perform related work as required.

*Examples of duties*

Measuring and computing the number of square or cubic feet in buildings, and estimating the unit cost thereof; locating buildings from legal descriptions; drawing lot, block and subdivision maps to scale, locating buildings on lots; estimating value of buildings according to design and materials used in construction; recording estimates on appraisal sheets; filing in record books; checking class sheets and lot books for information; investigating complaints; making reappraisals and adjusting values when necessary; investigating crops and trees and estimating values.

*Minimum qualifications*

Either (1) education equivalent to graduation from a full four-year course in high school of standard grade; at least three years' building construction experience having to do with either the preparation of complete plans and detail, the estimation and inspection of materials, the supervision of construction jobs, or the inspection and/or appraisal of complete buildings, or (2) some other equivalent combination of equal or greater value; knowledge of the costs of various items making up the total cost of a building; ability to recognize the quality of material and workmanship found in various types of structures; ability to keep appraisals of similar buildings on an equalized basis; ability to meet the public with courtesy and tact; accuracy; thoroughness; integrity; good judgment; good physical condition.

## SAN DIEGO COUNTY, CALIFORNIA

*Class title*

Personal Property Appraiser.

*Class definition*

Under supervision, to appraise and determine values of personal property for assessment purposes; and to perform related work as required.

*Examples of Duties*

Interviewing taxpayers in their homes, places of business or in the assessor's office; recording statements in regard to values of personal property; appraising furnishings, fixtures, equipment, machinery, livestock and other personal property; investigating complaints; giving information in regard to assessment matters; checking addresses; making collection of delinquent personal property taxes; seizing unsecured personal property for unpaid delinquent taxes; submitting reports of work done.

*Minimum qualifications*

Either (1) education equivalent to graduation upon completion of a full four-year course in a high school of standard grade, supplemented by training in commercial work requiring consideration of values of various articles of home and office furnishings and other personal possessions, or (2) some other equivalent combination of education and similar experience; thorough knowledge of the factors entering into the appraisal of business, industrial, residential and personal property; working knowledge of the provisions of the Constitution and the Political Code pertaining to the appraisal and evaluation of personal property in the State of California; familiarity with valuation methods and terminology; familiarity with utility accounting methods; ability to maintain cooperative relations with public and private organizations and co-workers; willingness to work at odd hours and to travel about the county; integrity; initiative; resourcefulness; tact; accuracy; good judgment; good health and freedom from disabling defects.

## CITY OF DETROIT, MICHIGAN

*Class title*

Principal Realty Appraiser.

*Class definition*

Under direction, to perform the more difficult and responsible technical work involved in the appraising and assessment of real property including the supervision of a few subordinates; and to perform related work as required.

*Examples of duties*

Subject to general policies formulated by superiors but with reasonable latitude in planning and carrying out the details of the activities supervised and with responsibility for results obtained, having charge of appraising land or buildings in a major district of the city by personally supervising a few technical assistants engaged in conducting field studies and collecting information relative to the value of land or buildings; making recommendations and presenting data for defending appraisals; advising subordinates on new problems, methods or policies.

Or, supervising a moderately large group of subordinates engaged in determining the type of construction, character of equipment, condition, age, measurements and other useful information relating to buildings; making out individual building record cards; computing the cubical contents of buildings and the assessed valuation; drawing maps, plats, building plans, charts and graphs; laying out and assigning work; checking it during process and upon completion in the office and occasionally checking in the field; instructing and advising subordinates on new problems, methods or policies.

*Minimum qualifications*

Education equivalent to graduation from a university of recognized standing with specialization in general engineering and/or business administration; considerable experience in appraising the value of land and build-

ings, a reasonable portion of which must have been in a public department making appraisals for assessment purposes; thorough knowledge of the principles, methods and practices of appraising the value of land and buildings, and with the application of such principles and methods to tax assessments; demonstrated ability to analyze and evaluate complex data relating to the appraisal of land and buildings; ability to supervise others; good powers of observation; physically active; tact in dealing with subordinates and the public; initiative and resourcefulness in handling difficult appraisal problems; no serious defects of vision, hearing or members.

#### CITY OF DETROIT, MICHIGAN

##### *Class title*

Junior Realty Appraiser.

##### *Class definition*

Under general supervision, to perform technical office and field work of moderate difficulty and responsibility involved in the appraisal and assessment of real property; and to perform related work as required.

##### *Examples of duties*

With the procedure and methods outlined and the results subject to review by superiors but with reasonable latitude in carrying out the details of assignments, performing such work as collecting information on the costs of buildings or procuring sales data and other field information on properties; measuring and cubing buildings; checking descriptions of property on the assessment rolls with registered survey furnished by owners and noting corrections; performing clerical work such as correcting land cards, maps and building cards; compiling factual information relative to building costs and land valuations for study and analysis; making divisions and combinations of plots and entering the new descriptions on the assessment rolls; making charts and graphs relating to assessment data.

##### *Minimum qualifications*

Education equivalent to graduation from a university of recognized standing with specialization in engineering and/or public or business administration; considerable experience in general office work relating to the assessment and appraisal of real property; reasonable familiarity with assessment principles and practices particularly as applied to real property; good powers of observation; physically active; tact in dealing with the public; resourcefulness in handling increasingly difficult work assignments; no serious defects of vision, hearing or members.

### **J. Model Departmental Recruiting Procedure**

THIS description of a simple recruiting procedure was designed for the guidance of assessors who wish to install a departmental merit system.

1. *Announcement of vacancies.* Efforts should be made to have announcements reach as many qualified persons as possible. The announcement should include the title of the position, a statement of duties and responsi-



bilities, the qualifications for appointment, the starting salary, and the maximum salary for the position.

2. *The acceptance of applications.* Applicants should be required to fill out a form, giving such essential information as name, address, age, education, experience, and references. When a written examination is not feasible, more detailed information about training and experience may be requested.

3. *Administration of an examination.* The examination will vary according to the nature of the position, but for most clerical and administrative positions the following tests are recommended:

a. *An information or duties test.* This may be prepared by the assessor or one of his assistants. It should examine applicants on their knowledge of the subject matter of the work for which they are applying and should be of a distinctly practical character.

b. *An oral interview.* This is designed primarily to test the applicant's personality and his ability to think clearly and talk pleasantly. Rambling and pointless conversations and repetition of material covered in the written examination should be avoided.

c. *Performance test.* For some clerical and technical positions candidates should be required to demonstrate their manual skill.

d. *Training and experience test.* The applicants for most positions will be graded on their training and experience. Since this has already been set forth in their applications, this test does not constitute a separate step in the recruitment process. It is listed at this point only because of its relationship to the preceding tests in the final rating of candidates.

e. *Medical test.* Candidates should be examined by a physician to insure that they are physically capable of performing the duties of the position. The medical test will be a qualifying test.

4. *Grading of tests and preparation of employment list.* A final score will be given each candidate, and the names will be listed in descending order of excellence. It should be noted that different weights will be accorded the tests used for various positions. Thus for a land appraiser the weights might be: Training and Experience, 30%; Information Test, 50%; and Oral Interview, 20%. For a typist the weights might be: Oral Interview, 10%; Information Test, 20%; and Performance Test, 70%.

5. *Appointment from employment list.* Under ordinary circumstances, the assessor will appoint someone who is at or very near the top of the list. Frequent deviations from this practice will naturally make candidates suspicious of the assessing officer's good faith in announcing vacancies and holding examinations, and they will increase pressure for more exceptions.

6. *Probationary or working test period.* New employees should be appointed on probation for six months. During this time, supervisors should observe the work of the new employees and indicate at the end of the period whether or not appointments should be made permanent.

## K. Assessment Review Agency Personnel

TABLE 26 contains personnel data on the local administrative review agencies serving each of the assessment districts listed in Tables 1 and 4. Similar data for state administrative review agencies to which an appeal may be taken from these local agencies or directly from local original assessment agencies appear in Table 27.

TABLE 26. NAME, COMPOSITION, NUMBER OF MEMBERS, MANNER OF SELECTION, TERM, AND COMPENSATION OF LOCAL ADMINISTRATIVE REVIEW AGENCIES NOT CLASSIFIED AS ORIGINAL ASSESSMENT AGENCIES, JANUARY 1, 1941

Name of Agency	Composition	Number of Members	Manner of Selection	Term in Years	Compensation
Ala.....County bd. of equalization	Residents and electors of county owning taxable prop. in Ala., one selected from list of 3 nominees of county gov. body, one from list of 3 nominees of county bd. of education, one from list of 3 or more nominees of city and town gov. bodies of the municipalities	3	Appt. by st. com'r of rev. with approval of gov.	If under civil serv. act, in- def.; otherwise 4	Varies from \$5 a day (with max. of \$400 a yr.) to \$3600 a yr.
*Municipal council <sup>2</sup>		Varies	Elected	Varies	Varies
Ariz.....County bd. of equalization	Board of supervisors	3	Elected	2	Varies from \$1200 to \$1500 a yr.
*City bd. of equalization	As provided by charter	—	—	—	—
Ark.....County bd. of equalization	Citizens who are real estate owners and qualified electors	3 to 9	Appt. by county quorum court	2	Not over \$10 a day or \$300 a yr.
Calif <sup>3</sup> .....County bd. of equalization	Board of supervisors	5	Elected	4	—
*City bd. of equalization	City council or bd. of trustees	Varies	Elected	Varies	Varies
*District bd. of equalization	Governing body	Varies	Elected	Varies	Varies
Colo.....County bd. of equalization	Board of commissioners	3	Elected	4	Varies from \$5 a day to \$2400 a yr.
Denver bd. of equalization	Pres. of council, manager of revenue, manager of improvements and parks	3	1 elected; 2 appointed by mayor	Councilman 2; others inden- nite	—
Conn.....Town bd. of tax review	Citizens	2 or more (usually 3)	Elected	2 or 3	Not less than \$2.50 a day
City bd. of review	As provided by special act <sup>4</sup>	—	—	—	—
Borough bd. of review	As provided by special act	—	—	—	—
Del.....*Municipal bd. of review	As provided by special act <sup>5</sup>	—	—	—	—
D. of C.....Bd. of Tax Appeals	Lawyer of at least 10 years' active practice preceding appointment	1	Appt. by dist. com. to	4	\$8000 a yr.

<sup>2</sup>Overlapping assessment districts. Footnotes on p. 407.

TABLE 26—Continued

Name of Agency	Composition	Number of Members	Manner of Selection	Term in Years	Compensation
Fla.....County bd. of equalization *City bd. of equalization	Board of commissioners As provided by special act <sup>6</sup>	5	Elected	4	Usually \$6 a day
Ga.....County bd. of tax assessors <sup>7</sup>	Freeholders and residents of county	3	Appt. by county com'rs or county ordinary	6	Not less than \$3 a day
	Municipal bd. of tax appeals <sup>8</sup>	3	Appt. by mayor and council	Set by mayor and council	Set by mayor and council
Idaho.....County bd. of equalization	Citizen freeholders	3	Elected	2	—
Ill.....County bd. of appeals (counties of over 500,000)	Board of commissioners	3	Elected	2	Set by county
	County bd. of review (counties of 150,000 to 500,000)	2	Elected	4	Set by county
	County bd. of review (all other township counties)	3	Elected	6	Set by county bd.
	County bd. of review (all counties without townships)	3	1 elected; 2 appt. by county judge	Supervisor 4; others 2	Per diem set by county bd.
Ind.....County bd. of review.....	Board of commissioners	3	Elected	3	\$4 a day
	County assessor, auditor, treasurer, and 2 freeholders of different political parties	5	3 elected; 2 appt. by circuit court judge	Assessor and auditor 4; treasurer 2; others 1	\$5 a day in counties under 200,000; \$6 elsewhere <sup>9</sup>
Iowa.....Twp. bd. of review (manager cities)	Township trustees	3	Elected	3	\$4 a day
	Municipal bd. of review (other municipalities) <sup>10</sup>	3	Appt. by council	Set by council	Set by council
	Municipal council	Varies	Elected	Varies	Varies
Kan.....County bd. of equalization	Board of commissioners	3	Elected	4	Usually \$5 a day
Ky.....County bd. of supervisors of taxes	Intelligent, discreet householders, residing in different magisterial districts	3 to 8	Appt. by county judge	1	\$3 a day
	Citizens of city	3	Appt. by bd. of aldermen	1	\$3 to a day
	*City bd. of equalization (2nd-class cities)	3	Appt. by bd. of com'rs	1	—
	*City bd. of equalization (2nd-class cities)	3	Appt. by bd. of com'rs	1	—

\*Overlapping assessment districts.  
Footnotes on p. 407.

TABLE 26—Continued

Ky.—Con.	Name of Agency	Composition	Number of Members	Manner of Selection	Term in Years	Compensation
	*City bd. of supervisors of taxes (3rd-class cities)	Intelligent householders, residing in different wards	3	Appt. by mayor with consent of council	1	—
	*City council (3rd-class cities)	Discreet freeholders	3 or 12	Elected	2	—
	*City bd. of supervisors of taxes (4th-class cities)	Discreet property owners	3	Appt. by bd. of city council	1	Not over \$2 a day
	*City bd. of equalization (5th- and 6th-class cities)		3	Appt. by city council or bd. of trustees	1	Not over \$2 a day
La.	Orleans Parish bd. of reviewers	Mayor and council of New Orleans, pres. of bd. of assessors, assessor of the mun. district under review, pres. of school bd., a member of the liquidation board, a member of the sewage and water board	11	Mayor, council, assessors elected; others appointed	4	—
	Parish bd. of reviewers (all other parishes)	Police jury	Varies	Elected	2 or 4	—
Me.	County bd. of commissioners	—	3	Elected	6	—
Md.	Baltimore appeal tax court	Citizens	3	Appt. by mayor	3	\$1000 a yr.
Mass.	County bd. of commissioners <sup>12</sup>	As provided by special act	Varies	Elected	Varies	Varies
Mich.	County bd. of commissioners <sup>12</sup>	—	3	Elected	3	—
	Township bd. of review	Township supervisor (assessor) and electors owning land within the township	3	Elected	Supervisor 1; others 2	\$2 a day
	City bd. of equalization and review (4th-class cities)	Assessor, board supervisors, mayor, and city attorney	Varies	Largely elected	1	—
	City bd. of review (home-rule cities without charter provisions) <sup>13</sup>	Assessors, city attorney, and as many other persons (not aldermen) as there are assessors	Varies	Largely appt.	Varies	—
	*Village board of review (unless otherwise provided by home-rule charter)	Assessor and 2 qualified freeholders and electors	3	Appt. by council	1	—
Minn.	Town bd. of review	Town board of supervisors	3	Elected	3	—
	City bd. of review (4th-class cities)	Mayor, clerk, and aldermen	Varies	Elected	2	—
	City bd. of review (home-rule cities without charter provisions) <sup>14</sup>	Assessor, mayor, and clerk	3	Varies	Varies	—

\*Overlapping assessment districts.  
Footnotes on p. 407.

TABLE 26—Continued

Name of Agency	Composition	Number of Members	Manner of Selection	Term in Years	Compensation
Minn.—Con. Village bd. of review (unless otherwise provided by home-rule charter)	Assessor, president, and clerk	3	Elected	2	—
Borough of equalization Roxbury County bd. of equalization	Borough council 3 county com'rs, 4 St. Paul councilmen, mayor of St. Paul, county auditor, county assessor, 1 township assessor	11	Elected Assessors appt.; others elected	2 Com'rs and auditor 4; twp. assessor 1; others 2	—
County bd. of equalization (all other counties)	Board of com'rs and county auditor or his deputy (if no deputy, clerk of district court)	6 <sup>15</sup>	Elected	4	—
Miss. .... County bd. of equalization	Board of supervisors	5	Elected	Varies	—
*Municipal bd. of equalization	Governing authority	Varies	Elected	4	—
Mo. .... County bd. of equalization (township counties) <sup>16</sup>	County sheriff, surveyor, and judges of county court	5	Elected	Sheriff, surveyor, and 1 judge 4; others 2	—
County bd. of equalization (other counties)	County assessor, surveyor, and judges of county court	5	Elected	Assessor, surveyor, and 1 judge 4; others 2	—
St. Louis bd. of equalization	Assessor and 4 citizens who are taxpayers and property owners with residence of at least 10 years in the city	5	Appt. by mayor	Assessor 4; others 1	—
*Kansas City bd. of equalization	Assessor, director of finance, mayor, and 2 councilmen	5	Appt. <sup>17</sup>	Assessor and fin. dir. indefinite; others 4	—
*City bd. of appeals (1st-class cities)	Mayor, president of council, and comptroller	3	Compt. appt.; others elected	Compt. 2; others 4	—
*City bd. of equalization (2nd-class cities)	Mayor, city commissioners, and county bd. of equalization <sup>18</sup>	11	Elected	4	—
*City bd. of equalization (3rd-class cities)	Assessor, mayor, and county bd. of equalization <sup>18</sup>	7	Elected	4	—
Mont. .... County bd. of equalization	Board of commissioners	3	Elected	6	—
Nebr. .... County bd. of equalization	County assessor, clerk, and bd. of county com'rs or supervisors	5, 7, or 9	Elected	4	—
*Lincoln bd. of equalization	City council	7	Elected	4	—
Nev. .... County bd. of equalization	Board of commissioners	3 or 5	Elected	2 and 4	—

\*Overlapping assessment districts

Footnotes on p. 407.

TABLE 26—Continued

Name of Agency	Composition	Number of Members	Manner of Selection	Term in Years	Compensation
N.H. .... Town board of selectmen	—	3	Elected	3	—
N.J. .... County bd. of taxation	Citizens of the county, not more than a bare majority from one political party	3 or 5 <sup>19</sup>	Appt. by gov. with consent of senate	3 or 5 <sup>19</sup>	Varies from \$1200 to \$4500 a yr.
N.M. .... County bd. of equalization	Board of commissioners	3	Elected	2	Varies from \$400 to \$800 a yr.
N.Y. .... Town bd. of review (outside Westchester County)	Town assessor, town supervisor, and a justice of the peace or councilman	3	Just. or councilman designated by town board	Just. 4; others 2	—
Town bd. of review (in Westchester County)	Town assessor, supervisor, and a justice of the peace or 3 resident taxpayers	3	Just. or taxpayers appt. by town bd.	2	Set by town board
City bd. of review	As provided by special act or charter <sup>20</sup>	Varies	Varies	Varies	—
*Village bd. of review	Assessor and bd. of trustees, or assessor and committee composed of a majority of the bd. of trustees	3 to 7	Elected (except assessor)	Trustees 2; assessor 2 or 3	—
N.C. .... County bd. of equalization and review	Board of commissioners or tax commission	3 to 7	County com'rs elected	County com'rs 2	—
*Municipal bd. of equalization and review	Municipal supervisor of taxation (assessor) and governing body	Varies	Elected (except supervisor)	Supervisor 1; others 2	—
N.D. .... Township bd. of review	Board of supervisors	3	Elected	3	—
City bd. of review (commission cities)	Board of commissioners	5	Elected	4	—
City bd. of review (gen'l law cities)	Mayor, council, and auditor	Varies	Aud. appt. by mayor; others elected	2	—
City bd. of review (other cities)	Mayor, auditor, and senior alderman from each ward	3 to 9	Elected	1	—
Village bd. of review	Board of village trustees and clerk	3 or 5	Elected	4	—
County bd. of review and equalization	Board of commissioners	3	Elected	4	—
Ohio. .... County bd. of revision	County auditor (assessor), treasurer, and pres. of bd. of com'rs	3	Elected	2	\$6 a day
Okla. .... County bd. of equalization	Citizens who are resident householders and freeholders over 21 years of age <sup>21</sup>	3	1 appt. by tax com'n.; 1 by dist. judge or judges; 1 by city com'rs	2	

\*Overlapping assessment districts.  
Footnotes on pp. 407-8.

TABLE 26—Continued

Name of Agency	Composition	Number of Members	Manner of Selection	Term in Years	Compensation
Ore.....County bd. of equalization	County assessor, clerk, and county judge <sup>23</sup>	3	Elected	Judge 6; others 4	—
Pa.....County bd. of revision (4th- to 8th-class counties)	Board of commissioners	3	Elected	4	—
*City bd. of revision of taxes and appeals (3rd-class cities)	City council or commission	5	Elected	4	—
*Borough council	—	Varies	Elected	4	—
R.I.....None					
S.C.....County bd. of equalization (counties containing a city of over 60,000)	County auditor, members of bd. of assessment	9	Elected	4	—
County bd. of tax appeals (counties containing a city of over 6,000)	Residents of the county	3	1 appt. by senator; others by representatives of county	2	—
County bd. of equalization (all counties with twp. or sch. dist. assessment districts unless otherwise provided by special act) <sup>24</sup>	County auditor, chm. of each bd. of assessors	Varies	Usually appt. by gov. with legislative advice	Assessors usually 2; auditor usually 4	\$2 a day
Municipal bd. of equalization <sup>24</sup>	Resident freeholders	3	Appt. by council	Not specified	—
Township bd. of equalization	Board of supervisors	3	Elected	3	—
City bd. of equalization	Governing body and auditor	Varies	Aud. appt. by mayor or gov. body; others elected	2 or 5	—
Town bd. of equalization	Board of trustees and clerk	4 to 6	Elected	1	—
County bd. of equalization	County auditor and board of commissioners	4 to 6	Elected	Auditor 2; others 4	—
Tenn.....County bd. of equalizers (unless otherwise provided by special act) <sup>25</sup>	Freeholders and taxpayers who have resided in county at least 6 years and who now reside in different parts of the county	5	Appt. by quarterly court and city governing body <sup>26</sup>	2	Not over \$5 a day for chm. or \$4 for others
*Municipal bd. of equalization	As provided by special act <sup>27</sup>	—	—	—	—

\*Overlapping assessment districts. Footnotes on p. 407.

TABLE 26—Concluded

Name of Agency	Composition	Number of Members	Manner of Selection	Term in Years	Compensation
Texas.....	County bd. of equalization	5	Elected	2	—
	*City bd. of equalization (home-rule cities)	5	Elected	—	—
	*City bd. of equalization (other cities)	3 or more	Council elected; council appt. by others	Council 2; not specified	—
	*District board of equalization	3	Appt. by governing body	Not specified	—
Utah.....	County bd. of equalization	3	Elected	2 and 4	—
Vt.....	City bd. of civil authority	Varies	Elected	Varies	—
	Town bd. of civil authority	Varies	Elected	Selectmen 3; others 1	—
	County bd. of appraisers <sup>30</sup>	3	Appt. by st. tax com'r	—	—
Va. <sup>31</sup> .....	County bd. of equalization of real estate assessments	3 to 5	Appt. by circuit court	1 <sup>32</sup>	Per diem set by county
	City bd. of equalization of real estate assessments	3 to 5	Appt. by corporation court or hustings court <sup>33</sup>	1	Per diem set by council
	*Town council	Varies	Elected	Varies	Varies
Wash.....	County bd. of equalization	3	Elected	Varies <sup>2</sup>	\$5 a day
	*City bd. of equalization (1st- and 2nd-class cities)	6	Elected	Varies	\$5 a day
W.Va.....	County court	3 <sup>34</sup>	Elected	6 <sup>34</sup>	—
Wis.....	Town bd. of review	4	Elected	2 and 4	Not over \$3 a day
	City bd. of review (1st-class cities)	5	Appt. by mayor with approval of council	5	Fixed by council
	City bd. of review (all other cities)	Varies	Varies	Varies	Not over \$3 a day
	Village bd. of review	Varies	Varies	Varies	Not over \$3 a day
Wyo.....	County bd. of equalization	3	Elected	2 and 4	—

\*Overlapping assessment districts.

Sources: State statutes, city charters; Illinois Tax Commission, *Sixteenth Annual Report, Assessment Year 1934*, pp. 212-26.

Footnotes on p. 468.



TABLE 27. NAME, COMPOSITION, NUMBER OF MEMBERS, MANNER OF SELECTION, TERM, AND COMPENSATION OF STATE ADMINISTRATIVE AGENCIES WITH AUTHORITY TO REVIEW LOCAL ASSESSMENTS, JANUARY 1, 1941

Name of Agency	Composition	No. of Members	Manner of Selection	Term in Years	Annual Compensation
Ala. ....	Commissioner of Revenue Qualified elector, citizen of state for at least 5 years, over 30 years old, known to possess high character and tax knowledge, holding no other public office or position of trust or profit inconsistent with duties as commissioner, not employed by or financially interested in a public service corporation	1	Appt. by gov.	Indefinite	Not over \$6000
Ariz. ....	State Tax Commission Residents of state for at least 5 years, possessing tax knowledge and experience, holding no other public office or position of trust or profit, and engaged in no occupation or business interfering or inconsistent with duties as commissioners	3	Elected	6	\$4050
Colo <sup>1</sup> . ....	Colorado Tax Commission Persons possessing tax knowledge and experience, holding no other public office or position of trust or profit, engaging in no occupation or business inconsistent with duties as commissioners, and taking part in no political activities	3	Appt. by gov. and treas. after examination by civ. serv. com'n	Indefinite	\$3600
Ind <sup>2</sup> . ....	State Board of Tax Commissioners Persons not more than two of whom belong to the same political party	3	Appt. by gov.	4	\$4500
Kan. ....	State Commission of Revenue and Taxation Persons possessing tax knowledge and skill, holding no other position of trust or profit, inconsistent with duties as commissioners	3	Appt. by gov. with consent of senate	4	\$4000
Ky. ....	Kentucky Tax Commission —	3	Appt. by gov.	Chm. indef.; others 4	Chm. \$5000; others \$4000 <sup>3</sup>
La. ....	Board of Revenue Residents not holding, or candidates for, any other public office	3	Appt. by gov.	9	Not over \$20 a day
Md. ....	State Tax Commission Taxpayers and qualified voters, not more than two from the same political party, residing in different sections of the state	3	Appt. by gov.	6	Chm. \$6000; others \$5000

Footnotes on p. 408.

TABLE 27—Continued

Name of Agency	Composition	No. of Members	Manner of Selection	Term in Years	Annual Compensation
Mass. .... Appellate Tax Board	Citizens, not more than three from the same political party	5	Appt. by gov. with consent of council	6	Chm. \$7500; others \$7000
Mich. .... State Tax Commission	Resident freeholders and duly qualified electors	3	Appt. by gov.	6	\$5000
Minn. .... Commissioner of Taxation	A person having ability and experience in taxation	1	Appt. by gov. with consent of senate	6	\$6000
Board of Tax Appeals	Citizens with experience and knowledge of taxation and public utilities, not more than same party, not otherwise in public employ, and not engaging in political activities	3	Appt. by gov. with consent of senate	6	\$25 a day; not over \$2500 a yr.
Mo. .... State Tax Commission	Taxpayers and qualified voters, residents of the state for at least 5 years, possessing tax knowledge and training, not more than two from the same political party	3	Appt. by gov. with consent of senate	6	Chm. \$5000; others \$4500
Mont. .... Montana Board of Equalization	Persons possessing tax knowledge and skill, holding no other office, and taking part in no political activities	3	Appt. by gov. with consent of senate	6	\$5000
Nev. .... Nevada Tax Commission	Governor; full-time appointed member of public utilities commission; and two others, experienced respectively in land valuation, livestock, mining, business, and banking	7	Gov. elected; others appt. by gov.	4	Gov. \$7000; pub. serv. com'r. \$4000; others \$600
N.J. .... State Board of Tax Appeals	Citizens not more than four of whom belong to the same political party and at least two of whom are counselors at law	7	Appt. by gov. with consent of senate	5	Pres. \$6500; others \$4500
N.M. .... State Tax Commission	Persons not more than two of whom belong to the same political party	3	Appt. by gov. with consent of senate	6	Chief \$3600; others \$200 per day with max. of \$1800
N.C. .... State Board of Assessment	Governor or some person designated by him; two representatives of public utilities com'r; atty. gen'l; and director of local government (state treasurer) <sup>4</sup>	5	Gov'r of rev. appt. by gov.; others elected	4	Gov. \$10,500; atty. gen'l and com'r of rev. \$7500; others \$6000

Footnotes on p. 408.

TABLE 27—Continued

Name of Agency	Composition	No. of Members	Manner of Selection	Term in Years	Annual Compensation
					\$5000
Ore. ....	Board of Tax Appeals	Three persons, not more than two from the same political party	Appt. by gov. with consent of senate	6	
Ore. ....	State Tax Commission	Persons skilled and expert in matters of taxation	Appt. by gov., sec'y of state, and st. treas.	4	Not over \$4800
S.C. ....	South Carolina Tax Commission	Persons possessing tax knowledge and skill, not more than two (the chairman) shall devote full time to the office and shall engage in no political activities	Appt. by gov. with consent of senate	6	Chm. \$6000; others \$3500 <sup>a</sup>
	Tax Board of Review	Persons residing in different congressional districts	Appt. by gov. with consent of senate	4	\$5 per day, with travel expenses except for chm.
S.D. ....	Comptroller General	Qualified elector holding no other office	Elected	4	\$3600
	State Board of Equalization	Director of taxation, ass't director of taxation, state auditor	Auditor elected; others appt. by sec'y of finance and dir. of tax n, respectively	Auditor 2; dir. of tax n 4; ass't dir. indefinite	Auditor \$1800; dir. of tax n \$3000; ass't dir. not over \$3600
Tenn. ....	State Board of Equalization	Governor, state treasurer, secretary of state, comptroller, and com'r of finance and tax n.	Gov. elected; com'r. of fin. appt. by gov.; others selected by legislature	Sec'y of st. 4; others 2	Gov. \$4000; others \$5000
Utah. ....	State Tax Commission	Persons possessing tax knowledge and skill, holding no other office, not more than two of whom belong to the same political party	Appt. by gov. with consent of senate	4	\$4200
Wash. ....	Tax Commission	Persons possessing special tax knowledge and holding no other office	Appt. by gov. with consent of senate	6	\$6000
Wis. ....	Commissioner of Taxation	A person recognized and demonstrated to have an interest in, and knowledge of, tax problems	Appt. by gov. with consent of senate	6	\$7000
Wyo. ....	State Board of Equalization	Persons holding no other public office	Appt. by gov. with consent of senate	6	\$5000

Sources: State statutes; Tax Research Foundation, *Tax Systems*, 8th edition, pp. 111-112. Footnotes on p. 408.

# FOOTNOTES TO TABLE 26

<sup>11</sup>If there are no municipalities in the county, the county governing body nominates 6 persons, and 2 out of the 6 are appointed. The governing body of the largest municipality in other counties nominates 3 persons, and the governing body of each smaller municipality nominates 1 person.

<sup>12</sup>The city council acts as a board of review only when the city clerk makes up the assessment roll from the county roll; when a board of assessors is constituted (usually composed of the council itself), complaints are heard by such board and are appealed to the courts.

<sup>13</sup>In the consolidated City and County of San Francisco, the board of supervisors is the city council. Cities and counties with home-rule charters may make other provisions for review agencies, but apparently seldom if ever do.

<sup>14</sup>The review agencies of some towns are also established by special act, resulting in variations from the provisions of the general law. In the three largest cities, members of the review boards are appointed—in Bridgeport by the board of apportionment and taxation, in Hartford by the council, and in New Haven by the mayor.

<sup>15</sup>In Wilmington there is no appeal from final decisions of the board of assessors, but elsewhere the city council usually hears appeals.

<sup>16</sup>The city council generally serves as the board of equalization, as in Jacksonville and Miami. In Tampa the board of equalization is composed of the mayor, the city attorney, and the board of representatives, controlled by the mayor and city attorney.

<sup>17</sup>As a rule, appeals may be taken from decisions of the board of tax assessors to a so-called "board of arbitration," one member of which is designated by the taxpayer, another by the board of tax assessors, and a third, if needed, by the other two.

<sup>18</sup>This is the board which municipalities may elect to establish under general law. However, most city review boards are created under special acts. In Atlanta, appeals may be taken to a committee of the general council, which makes recommendations for final disposition by the council.

<sup>19</sup>The compensation listed does not apply to the county assessor, who receives an annual salary.

<sup>20</sup>By 1941 legislation, the board of review of cities over 125,000 is to be composed of five members, a licensed real estate broker, a registered architect, and three other resident electors and freholders. They are to be appointed for six-year terms by a board composed of the city council, the school board, and the county board of supervisors.

<sup>21</sup>In all but two counties, this board is considered the board of assessors as well as the board of review. See footnote 3, p. 386.

<sup>22</sup>In the mayor and aldermen or city council type, the city council of Bridgeport, and the mayor and aldermen of Winthrop are the commissioners of Suffolk County. The selectmen of the town of Nantucket are the Nantucket County commissioners.

<sup>11</sup>Most home-rule charters provide for review agencies. The board of review consists of the supervisors and the assessor in Flint and of the council in Detroit and Grand Rapids.

<sup>12</sup>Most home-rule charters provide for review agencies. In Minneapolis, a committee of the city council serves as a board of review; St. Paul's assessments are reviewed by the Ramsey County board of equalization; Duluth's review board conforms to the general law.

<sup>13</sup>Duluth is in any county with a population exceeding 75,000 and an area exceeding 100 square miles (i.e., St. Louis). Cities and counties with home-rule charters are to be heard by a "court of appeals" composed of the clerk of the county court and two justices of the peace.

<sup>14</sup>Councilmen members are designated by the mayor. The director of finance is appointed by the manager, and the assessor by the director of finance.

<sup>15</sup>The city officials specified meet with the county board of equalization when it passes on property within the city, and each is entitled to a vote. The term given is that of the city officials. The assessments of fourth-class Missouri cities are reviewed by the county board of equalization.

<sup>16</sup>In first-class counties (Hudson and Essex).

<sup>17</sup>In Buffalo, New York City, and Syracuse, review is by the original assessment agency; in Albany and Yonkers by the corporation counsel, comptroller, and assessor; in Rochester, by the mayor, comptroller, corporation counsel, and two citizens; in Utica, by the mayor, president of the council, chairman of the council tax committee, and assessors.

<sup>18</sup>This is the composition of the board as prescribed by *Consolidated Laws*, 1913, sec. 3872. Sec. 2133 provides that the board shall consist of the president and auditor.

<sup>19</sup>A 1941 law makes this a county judge.

<sup>20</sup>In a few counties (e.g., Beaufort, Horry, Lancaster, and Laurens) county boards of equalization are differently constituted as provided by special acts.

<sup>21</sup>These special boards have been created for the following towns: Lake City, Lancaster, Leesville, Manning, Summerton. Their powers apparently overlap those of their county boards.

<sup>22</sup>Several counties (e.g., Carter, Macon, and Moore) have elected boards of equalization.

<sup>23</sup>In counties containing a city of 60,000 or over, two members are appointed to the county board; in counties containing a city of 5000 to 60,000, one member is so appointed.

<sup>24</sup>In Memphis and Nashville, review is by a board appointed by the mayor; in Knoxville, it is by a "tax commission" composed of five citizens appointed by the council.

## FOOTNOTES TO TABLE 26—Concluded

<sup>22</sup>In Fort Worth, review is by the assessor and two members of the council; in Dallas, by three persons chosen by the council from its own membership or otherwise; in Houston, by the council; and in San Antonio, by the commissioners.

<sup>23</sup>If less than three of these officials come from any political party on the official ballot, additional representatives of that party are selected for membership on the board.

<sup>24</sup>These boards are constituted only in the event of an appeal. County boards of equalization are required to meet annually in counties of over 30,000 adjoining a city of 100,000 to 150,000 (Principess Anne County); elsewhere they may be constituted by majority vote of the county board of supervisors in any year. City boards of equalization are required to be constituted every fourth year (1942, 1946, etc.) in all cities of over 12,000 except Richmond and Norfolk, and may be constituted in cities of 12,000 or less in the same years by majority vote of

the governing bodies. In cities of 125,000 to 150,000 (Norfolk) and of over 175,000 (Richmond), the equalization may be, and actually is, performed by a continuing board of real estate assessors.

<sup>25</sup>Except in counties of not over 30,000 adjoining a city of 100,000 to 150,000, where the term is 4 years.

<sup>26</sup>In Hopewell, appointment is by the circuit court of the city; in Roanoke, by the court of law and chancery; in any other city not having a corporation or hustings court, by the circuit court.

<sup>27</sup>Jefferson County has a court of 5 members serving two-year terms, and Preston County a court of 8 serving two-year terms.

<sup>28</sup>The assessor is not eligible.

<sup>29</sup>A 1941 act of the Oklahoma legislature establishes the following additional qualifications: (1) not over 70 years of age; (2) not a public employee for two years prior to appointment; (3) not a vendor to any public body or agency.

## FOOTNOTES TO TABLE 27

<sup>1</sup>Section 15, Article X of the constitution appears to give the State Board of Equalization review powers. However, both the federal and state courts have interpreted this section otherwise. See *Union Pacific Railroad Co. v. Board of Equalization* (1929) 35 Fed. (2d) 785; *Board of Commissioners v. Union Pacific Railroad Co.* (1931) 89 Colo. 110, 299 Pac. 1055. By subsequent legislation, this agency has been replaced by the Indiana Tax Board, composed of three members representing at least two political parties and appointed by the Governor, Lieutenant-Governor, and

Treasurer of the state for terms of four years. It is reported, however, that the reorganization act is in litigation.

<sup>2</sup>Associate members receive an additional \$500 for service on the alcoholic beverage control board.

<sup>3</sup>By legislation enacted in 1941, the Director of Tax Research takes the place of the Governor or his representative on the board.

<sup>4</sup>These are the salaries provided for in the latest available appropriation acts.

## L. The Hierarchy of Assessment Review

APPEALS may be taken from the decisions of local assessors along the lines indicated in Figure 11. A dashed line joining two agencies means that the second agency can alter decisions of the first agency on appeal but not on its own motion. A solid line, on the other hand, indicates that the second agency may alter decisions of the first agency either on appeal or on its own motion. A dot-dashed line means that the second agency may increase an assessed valuation on its own motion or on appeal but may reduce an assessed valuation only on appeal from the first agency. A dotted line is used to indicate that the first agency may refer an assessment to the second agency for advice. Judicial review agencies noted in the last column of the figure are those empowered to review assessments which are alleged to be inaccurate but not illegal. Certain exceptions or possible exceptions to these rules are noted in the following paragraphs.

*Alabama.* The statutes confer no right of appeal from county boards of equalization to the Commissioner of Revenue, and it is not certain that the Commissioner may entertain an appeal. However, he has the duty of advising county boards through his tax agents (none are now employed) and has broad authority to alter the decisions of such boards.

*California.* Locally assessed property belonging to a political subdivision of the state is reviewed by the State Board of Equalization rather than by a local board.

*Colorado.* Appeals must first be taken to the assessor. If the assessment is \$7500 or less, the next appeal is to the county board of equalization; otherwise it is to the district court. This court may give relief only if the assessment appears to be manifestly excessive, fraudulent, or oppressive. The county board of equalization may increase or decrease an assessed valuation on its own motion whatever the amount. The Colorado Tax Commission has the right but not the duty to hear appeals.

*Connecticut.* The superior court may entertain appeals directly from local assessors only on assessments which are "manifestly excessive."

*Florida.* A 1941 law provides for appeal from the county board of equalization to the circuit court on assessments of tangible personal property.

*Indiana.* Statutory provision for appeal to the circuit or superior court was held unconstitutional except as it refers to appeals on questions of law. *Peden v. Board of Review* (1935) 208 Ind. 215, 195 N. E. 87.

*Kentucky.* The Kentucky Tax Commission may change assessed valuations on its own motion but may not entertain appeals. *Perry County v. Kentucky River Coal Corp.* (1938) 274 Ky. 235, 118 S. W. (2d) 550.

*Louisiana.* The review procedure in this state was altered by a 1940 act abolishing parish boards of equalization. Apparently the first review of assessments (outside Orleans Parish) is now by the State Board of Revenue. The rolls are then turned over to parish boards of reviewers for the hearing of complaints. Complaints sustained by a parish board are forwarded to the Board of Revenue for final disposition.

*Maine.* If an appealed assessment is referred by the superior court to the State Tax Assessor, his findings of fact become prima facie evidence.

*Minnesota.* The Minnesota review process is too complicated to show in this diagram. An assessment of personal property in the name of a nonresident of

a local assessment district may be lowered by the county board only on appeal. The district court apparently does not review personal property assessments unless they are alleged to be illegal. This intricate system or review appears to be paralleled by a more or less independent system of tax abatement.

*Missouri.* If the county board of equalization fails to convene, provision is made for hearings before a special "court of appeals."

*North Dakota.* Residents of a local assessment district may appeal assessments directly to the county board if made after the meeting of the local board of review, and nonresidents apparently must appeal directly from the assessor to the county board. The 1941 revision of the laws governing review and equalization did not alter the procedures diagramed in the figure.

*South Carolina.* The relation of municipal and county boards of equalization is not indicated in the statutes. In addition to the agencies shown on the diagram, the Comptroller General is authorized to hear appeals from county boards of equalization. The rights of appeal to the Comptroller General and to the South Carolina Tax Commission are apparently concurrent (*Bank of Johnston v. Prince* (1926) 136 S. C. 439, 134 S. E. 387), although it is reported that the Comptroller General no longer serves in this capacity.

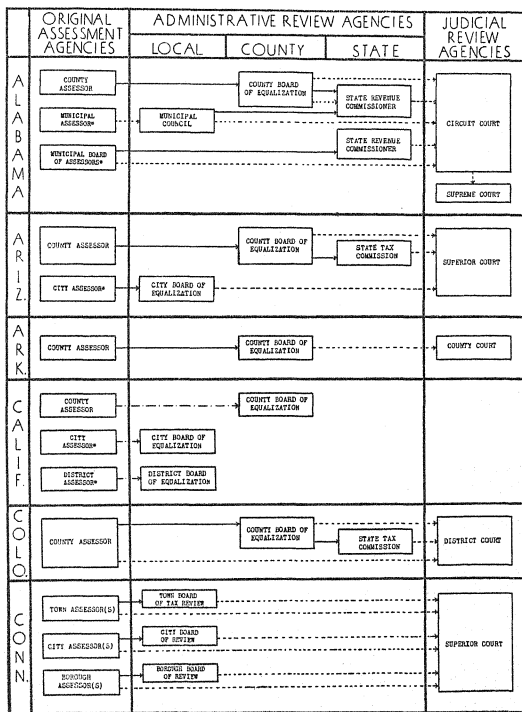
*South Dakota.* The county board may make changes on its own motion only if inequality is gross. In addition to the relationship depicted on the diagram, nonresident owners of real property apparently have the right of direct appeal from the assessor to the county board.

*Washington.* The statute granting the Tax Commission authority to change assessments on its own motion is apparently unconstitutional. *State ex rel. Tax Commission v. Redd* (1932) 166 Wash. 132, 6 Pac. (2d) 619. However, the opinion in a later case involving the right of the Commission to make changes on appeal (*State ex rel. King County v. State Tax Commission* (1933) 174 Wash. 668, 26 Pac. (2d) 80) states that the decision in the Redd case "was not intended to limit the commission in the exercise of its appellate and revisory powers in the review of proceedings of county boards of equalization . . . ." (Italics added.)

The city assessor listed in the first column is the county assessor acting ex officio.

*West Virginia.* Appeals may be taken to the supreme court only if the assessment is \$50,000 or more.

*Wisconsin.* As indicated in the diagram, the statutes provide for appeal to the circuit court only for assessments of first-class cities (Milwaukee), although the state court decisions give no indication that the assessments of such cities stand on a different basis than those of other districts.



\*OVERLAPPING ASSESSMENT DISTRICTS

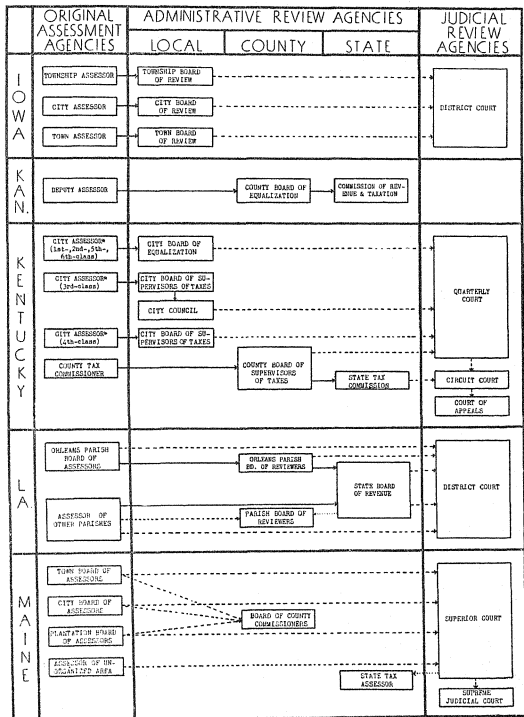
FIGURE 11. THE HIERARCHY OF ASSESSMENT REVIEW



	ORIGINAL ASSESSMENT AGENCIES	ADMINISTRATIVE REVIEW AGENCIES			JUDICIAL REVIEW AGENCIES
		LOCAL	COUNTY	STATE	
D E L.	<div>COUNTY BOARD OF ASSESSORS</div> <div>CITY BOARD OF ASSESSORS*</div> <div>CITY ASSESSOR(S)*</div>	<div>CITY BOARD OF REVIEW</div>			
D. of C.	<div>BOARD OF EQUALIZATION AND REVIEW</div>	<div>BOARD OF TAX APPEALS</div>			
F L A.	<div>COUNTY ASSESSOR</div> <div>CITY ASSESSOR*</div>	<div>CITY BOARD OF EQUALIZATION</div>	<div>COUNTY BOARD OF EQUALIZATION</div>		
G A.	<div>COUNTY TAX RECEIVER</div> <div>MUNICIPAL ASSESSOR(S)*</div>	<div>MUNICIPAL BOARD OF TAX APPEALS</div>	<div>COUNTY BOARD OF TAX APPEALS</div> <div>THREE ARBITRATORS</div>		
I D A.	<div>COUNTY ASSESSOR</div>		<div>COUNTY BOARD OF EQUALIZATION</div>		<div>DISTRICT COURT</div>
I L L I N O I S	<div>COOK COUNTY ASSESSOR</div> <div>COUNTY BOARD OF ASSESSING</div> <div>COUNTY TREASURER</div> <div>TOWNSHIP ASSESSOR</div>		<div>COOK COUNTY BD. OF APPEALS</div> <div>COUNTY BOARD OF REVIEW</div>		
I N D.	<div>TOWNSHIP ASSESSOR</div>		<div>COUNTY BOARD OF REVIEW</div>	<div>STATE BOARD OF TAX COMMISSIONERS</div>	

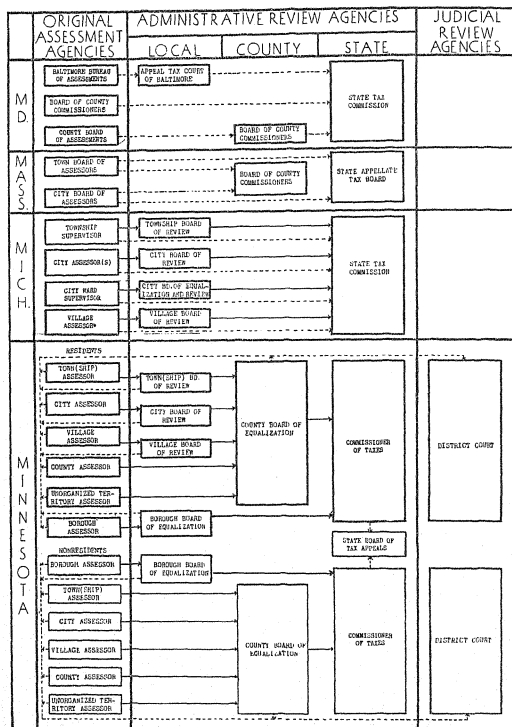
\*OVERLAPPING ASSESSMENT DISTRICTS

FIGURE II—Continued



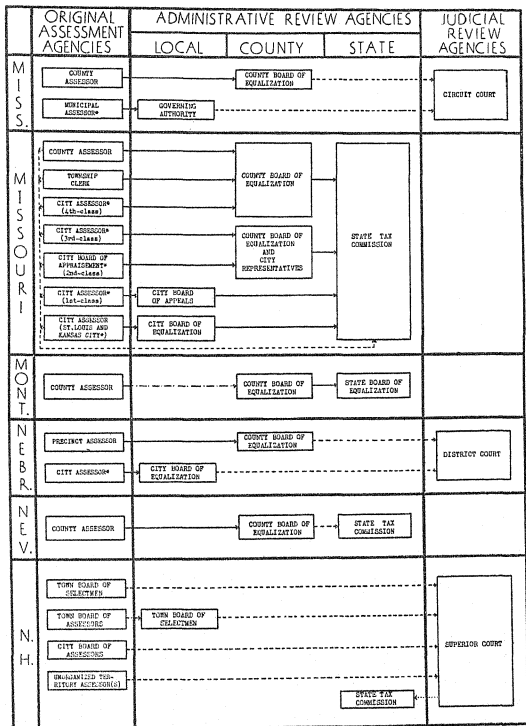
\*ORGANIZING ASSESSMENT DISTRICTS

FIGURE 11—Continued



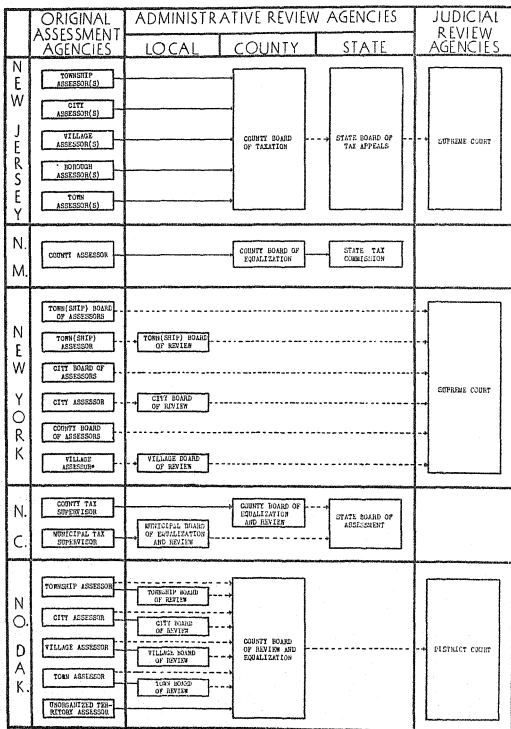
\*OVERLAPPING ASSESSMENT DISTRICTS

FIGURE II—Continued



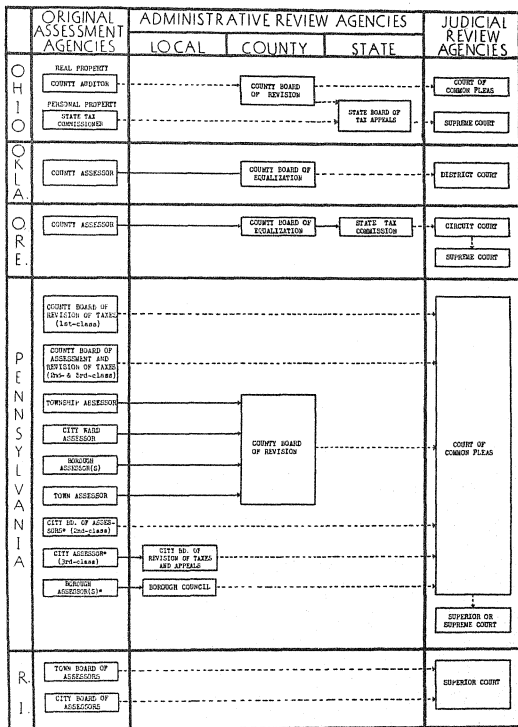
\*OVERLAPPING ASSESSMENT DISTRICTS

FIGURE 11—Continued



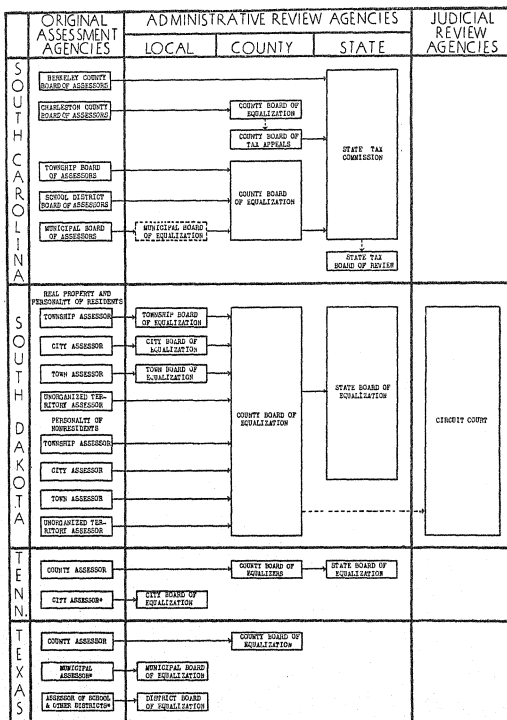
\*OVERLAPPING ASSESSMENT DISTRICTS

FIGURE 11—Continued



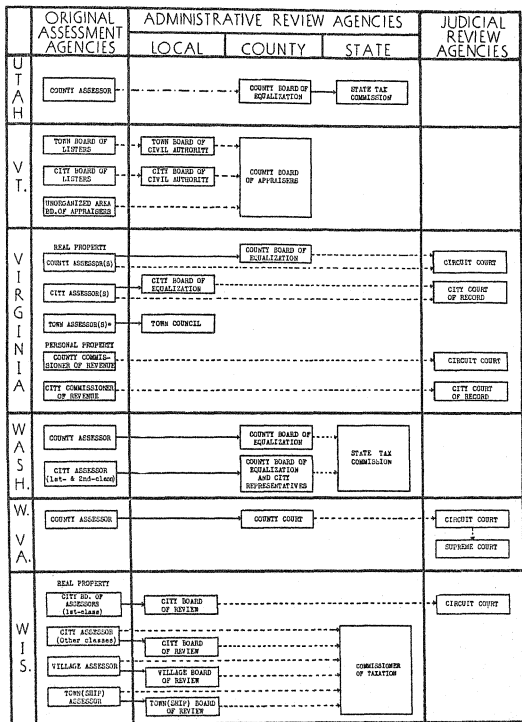
\*OVERLAPPING ASSESSMENT DISTRICTS

FIGURE 11—Continued



\*OVERLAPPING ASSESSMENT DISTRICTS

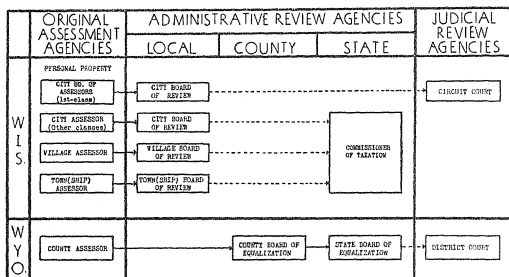
FIGURE 11—Continued



\*OVERLAPPING ASSESSMENT DISTRICTS

FIGURE 11—Continued



FIGURE 11—*Concluded*

### M. Equalization Agency Personnel

PERSONNEL data on local and state agencies which have equalization powers but do not review local assessments are given in Tables 28 and 29.

TABLE 28. NAME, COMPOSITION, NUMBER OF MEMBERS, MANNER OF SELECTION, AND TERM OF COUNTY EQUALIZATION AGENCIES HAVING NO REVIEW POWERS, JANUARY 1, 1941

Name of Agency	Composition	No. of Members	Manner of Selection	Term in Years
Iowa. .... County bd. of review	Board of supervisors	3, 5 or 7	Elected by districts or at large	2 or 3
Mich. .... County bd. of supervisors	—	Varies <sup>1</sup>	Elected by districts or appt. <sup>1</sup>	1
N.Y. .... County bd. of supervisors <sup>3</sup> County commissioners of equalization <sup>2</sup>	Two residents not members of bd. of supervisors, one non-resident not paying taxes in county but residing in judicial district, not more than 2 from the same political party	Varies <sup>4</sup> 3	Elected by districts Appt. by bd. of supervisors	Usually 2 3
Erie County Board of Equalization	Two persons belonging to the two major political parties, one residing in Buffalo, the other in the county but not in Buffalo, to be elected annually to the position	2 <sup>6</sup>	Appt. by resident sup. ct. justices	3 <sup>6</sup>
Westchester County Tax Commission	Residents of the county for at least 5 years, either two or three from cities, balance from towns, two or three from majority political party and at least one from next strongest party	5	Appt. by county executive with consent of county bd.	5
Wis. .... County bd. of supervisors (counties with population of 100,000 and over) County bd. of supervisors (counties with population of 250,000 and over)	Chm. of the bd. of supervisors of each town, plus one representative from each city ward and each village One representative from each assembly district	Varies Varies	Elected by districts Elected by districts	Varies <sup>7</sup> 4

<sup>1</sup>One for each township; one for each ward of a fourth-class city; from 2 to 75 for home-rule cities, depending on population.

<sup>2</sup>Supervisors are appointed in most home-rule cities and are elected electors.

<sup>3</sup>This organization, optional with the one described below, is found in 46 counties.

<sup>4</sup>Each town has a single supervisor. Cities usually have as many supervisors as they have wards.

<sup>5</sup>This organization, optional with the preceding, is found in Columbia Broome, Delaware, Lewis, Madison, Oneida, Onondaga, and Rensselaer counties.

<sup>6</sup>If the two regular members are unable to agree on an equalization table by November 1, a third member is appointed for that year by the resident justices of the supreme court. This member is elected from the judicial district in which the county seat is located but not of the county.

<sup>7</sup>Term is the same as that for other officers of the town, city, or village.

TABLE 29. NAME, COMPOSITION, NUMBER OF MEMBERS, MANNER OF SELECTION, TERM, AND COMPENSATION OF STATE EQUALIZATION AGENCIES HAVING NO REVIEW POWERS, JANUARY 1, 1941

Name of Agency	Composition	No. of Members	Manner of Selection	Term in Years	Compensation
Ark. ....	Ark. Corporation Commission	3	Appt. by gov. with consent of senate	Indefinite	\$4200
Calif. ....	State Board of Equalization	5	Elected	4	\$5000
Colo. ....	State Board of Equalization	5	Elected	2	Gov. and atty. gen'l \$5000; auditor and sec'y of state \$4000; treas. \$6000
Ga. ....	State Revenue Commissioner	1	Appt. by gov. with consent of senate	6	\$4800
Idaho ....	State Board of Equalization	5	Elected	2	Gov. \$5000; others \$4000
Ill. ....	Illinois Tax Commission	3	Appt. by gov. with consent of senate	2	\$5100
Iowa ....	State Tax Commission	3	Appt. by gov.	6	\$4500
Me. ....	State Board of Equalization	3	Appt. by gov. and council	Chm. indef.; others 4	Set by gov. and council
Mass. ....	Commissioner of Corporations and Taxation	1	Appt. by gov. with consent of council	3	Not over \$7500 as set by gov. and council

Footnotes on p. 424.

TABLE 29—Continued

Name of Agency	Composition	No. of Members	Manner of Selection	Terms in Years	Compensation
Mich. ....	State Board of Equalization	Auditor gen'l, com'r of agr. and members of state tax com'n	5	Aud. elected; others appt. by gov. <sup>2</sup>	Tax com'rs \$5000; aud. 2; com'r of agr. indef.
Miss. ....	State Tax Commission	Qualified electors possessing special knowledge of taxation as pertaining to Miss., not engaging in any occupation interfering or inconsistent with duties, the chairman selected at large and others from specified districts	3	Appt. by gov. with consent of senate	6 Chm. \$6000; others \$3600
Mo. ....	State Board of Equalization	Governor, state auditor, state treas., sec'y of state, and att'y. gen'l	5	Elected	4 Same per diem as members of gen'l assembly <sup>3</sup>
Nebr. ....	State Board of Equalization	Governor, state auditor, state treas., sec'y of state, and tax com'r	5	Tax com'r appt. by gov. with consent of senate; others elected	2 Gov. \$7500; others \$5000
N.H. ....	State Tax Commission	Persons possessing knowledge of taxation, one of whom belongs to the leading minority party	3	Appt. by supreme court	6 Sec'y \$4000; others \$3000
N.J. ....	State Tax Commissioner	—	1	Appt. by gov. with consent of senate	5 \$7500
N.Y. ....	State Tax Commission	Residents of the state possessing tax knowledge and skill	3	Appt. by gov. with consent of senate	Pres. 2; others 6 Pres. \$12,000; others \$10,000
N.D. ....	State Board of Equalization	Governor, state auditor, state treas., com'r of agr. and labor, tax com'r	5	Elected	Tax com'r 4; others 2 Gov. \$2000; aud. and treas. \$2400; com'r of agr. \$2000; tax com'r \$2800 <sup>4</sup>
Okla. ....	State Board of Equalization	Governor, state auditor, state treas., sec'y of state, att'y. gen'l, state examiner and inspector, pres. of bd. of agriculture	7	Elected	4 Gov. \$6500; att'y. gen'l \$5000; aud. and treas. \$6000; others \$3000

Footnotes on p. 424.

TABLE 29—*Concluded*

Name of Agency	Composition	No. of Members	Manner of Selection	Term in Years	Compensation
Pa. .... State Council of Education	Superintendent of public instruction and nine others	10	Appt. by gov. with consent of senate <sup>3</sup>	Supt. of pub. inst. 4; others 6	Supt. of pub. inst. \$12,000; others none
R. I. .... Tax Administrator	—	1	Appt. by dir. of coordination and finance with approval of gov.	Indef.	Set by legislature

<sup>1</sup>The final equalization authority in Massachusetts is the state legislature. However, the Commissioner of Corporations and Taxation advises the legislature.

<sup>2</sup>With the consent of the senate in the case of the Commissioner of Agriculture.

<sup>3</sup>This per diem of \$5 is prescribed by section 9864 of the *Revised Statutes*. The regular salaries are: Governor \$5000; others \$3000.

<sup>4</sup>These are the salaries provided for in the last appropriation act.

<sup>5</sup>With the consent of two-thirds of the senate in the case of the Superintendent of Public Instruction.

## N. Powers and Personnel of Assessment Supervisory Agencies

TABLES 30 and 31 list the principal powers and duties of county and state supervisors of local assessors, and Tables 32 and 33 provide personnel data relating to these supervisory agencies to the extent that they have not been included in preceding tables.

TABLE 30. PRINCIPAL POWERS AND DUTIES OF COUNTY SUPERVISORY AGENCIES, JANUARY 1, 1941

Agency or Official	Meets with Assessors	Supervisory Powers and Duties		
		Adds Omitted Property; Corrects Errors	Makes Rules and Regulations	Other Powers and Duties
Ill. . . . . County treasurer <sup>1</sup>	Annually	Yes <sup>2</sup>	Yes	Changes assessed valuations <sup>3</sup> ; preserves assessment records; publishes assessments
Ind. . . . . County assessor	Annually	Yes	No	Reports incompetent assessors to state tax department; serves as inheritance tax appraiser <sup>3</sup> ; helps assess intangibles
Kan. . . . . County assessor <sup>4</sup>	Annually	Yes	No	Appoints assessors of cities; suspends incompetent assessors; recommends changes in assessed valuations to county board
Minn. . . . . County supervisor of assessments <sup>5</sup>	—	No	No	Fixes assessed valuation of property not viewed by assessors; recommends changes to county board; assesses unorganized territory
Nebr. . . . . County assessor	At least annually	Yes	No	Changes assessed valuations; serves on board of equalization
N.J. . . . . County board of taxation	—	Yes <sup>2</sup>	With approval of Tax Commissioner	Assesses bank stock; serves as review agency
N.Y. . . . . Monroe County Director of Finance	—	No	With approval of Tax Commission <sup>6</sup>	—
Westchester County Tax Commission	May meet annually	No	Promulgates and enforces uniform standards	Designates necessary equipment and records; serves as equalization agency
Tenn. . . . . General county assessor <sup>7</sup>	—	No	No	Assists and counsels assessors and board of equalization; compiles and preserves assessment records

<sup>1</sup>In counties with townships and with populations less than 150,000.

<sup>2</sup>With notice to affected taxpayers.

<sup>3</sup>In counties of less than 200,000, the assessor may be required to appraise estates without additional compensation.

<sup>4</sup>The county clerk is ex-officio county assessor in all but 5 counties.

<sup>5</sup>St. Louis County is said to be the only county employing such an official.

<sup>6</sup>These rules, when and if issued, are not applicable to city assessors.

<sup>7</sup>This office was created by *Private Acts of 1937*, ch. 500, for counties of 29,215 to 29,223 population. At the time of its passage, the act was applicable to Carter County, but no county is now in this population range.

TABLE 31. PRINCIPAL POWERS AND DUTIES OF STATE SUPERVISORY AGENCIES, JANUARY 1, 1941

Name of Agency or Title of Official	Supervisory Powers and Duties										Assess Order or		
	Give Advice	Employ Field Agents	Conduct Meetings	Constitute Tax Laws	Visit Require Local Reports	Investigate Complaints	Issue Regulations	Prescribe Forms	Establish Penalties	Institute Proceedings	Enforce Penalties	Rate Property	Order Review Assessments
Ala.....	*	*	A	—	*	A	*	— <sup>2</sup>	*	*	*	*	—
Ariz.....	*	*	A	*	*	*	*	*	*	*	*	*	*
Ark.....	*	*	A	*	*	*	*	*	*	*	*	*	*
Calif.....	*	*	A	—	*	B	*	*	—	*	*	*	—
Colo.....	—	—	—	—	*	*	—	—	—	*	*	*	—
Conn.....	—	—	—	—	*	*	—	— <sup>3</sup>	—	— <sup>23</sup>	—	—	—
Fla.....	*	—	—	—	—	—	*	*	—	—	*	—	—
Ga.....	*	—	—	—	—	—	*	*	—	—	*	—	—
Idaho.....	—	—	—	—	—	—	—	— <sup>2</sup>	—	—	—	—	—
Ill.....	*	—	—	—	—	—	—	—	*	*	*	—	—
Ind.....	*	—	A <sup>4</sup>	*	*	A	*	*	*	—	*	*	*
Iowa.....	*	—	B	—	*	*	*	*	*	— <sup>6</sup>	*	*	*
Kan.....	*	—	A	— <sup>7</sup>	*	*	*	*	*	—	*	*	—
Ky.....	*	—	—	—	*	*	*	— <sup>8</sup>	—	*	*	*	—
La.....	*	—	A	—	*	A	*	*	*	— <sup>9</sup>	*	*	—
Me.....	*	—	—	—	*	*	*	*	*	— <sup>10</sup>	*	*	—
Md.....	*	—	—	*	—	*	*	*	*	*	*	*	—
Mass.....	*	—	—	—	*	*	*	*	*	*	*	*	—
Mich.....	*	—	—	—	*	*	*	*	*	*	*	*	—
Minn.....	*	—	*	—	*	*	*	*	*	*	*	*	—
Miss.....	*	—	A	—	*	B	*	*	*	*	*	*	—
Mo.....	*	—	*	—	*	B	*	*	*	*	*	*	—
Mont.....	*	—	*	—	*	*	*	*	*	*	*	*	—
Neb.....	—	—	—	—	—	—	—	*	—	*	*	*	—
Nev.....	*	—	—	—	*	*	*	*	*	*	*	*	—
N.H.....	*	—	*	—	*	*	*	*	*	*	*	*	—
N.J.....	*	—	*	—	*	*	*	*	*	*	*	*	—
N.M.....	*	—	*	—	*	*	*	*	*	*	*	*	—
N.Y.....	*	—	*	—	*	*	*	*	*	*	*	*	— <sup>12</sup>





TABLE 32. NAME, QUALIFICATIONS, MANNER OF SELECTION, TERM, AND COMPENSATION OF COUNTY SUPERVISORY OFFICERS NOT INCLUDED IN TABLES 26 OR 28, JANUARY 1, 1941

	Official Title	Statutory Qualifications	Manner of Selection	Term in Years	Compensation
Ill. ....	County treasurer	Citizen and resident of the state for 1 yr.	Elected	4	—
Ind. ....	County assessor	Resident freeholder of county for 4 yrs.	Elected	4	Varies from \$180 to \$2880
Kan. ....	County clerk or assessor	Resident taxpayer of county for 4 yrs. <sup>2</sup>	Elected	2	Varies <sup>1</sup>
Minn. ....	County supervisor of assessments	Resident voter of county	Appointed by commissioners	Indefinite	Set by county board
Nebr. ....	County clerk or assessor	—	Elected	4	Varies <sup>3</sup>
N.Y. ....	Monroe County director of finance <sup>4</sup>	—	Appointed by county mgr.	Indefinite	Set by county board
Tenn. ....	General county assessor	Citizen over 20 years of age	Elected	4	—

<sup>1</sup>The statutory salaries for county assessors vary from \$5 a day to \$3200 a year. County clerks acting ex officio as assessors are allowed extra compensation which, for a group of counties recently surveyed by the Kansas Legislative Council (see its Publication No. 99, p. 48), ranged in the last real estate reassessment year from \$300 to \$1200.

<sup>2</sup>These are the qualifications for a person elected to the office of county assessor. Any qualified elector is eligible for the office of county clerk.

<sup>3</sup>The statutory per diem for county assessors in counties of less than 100,000 population is \$5, with annual maxima ranging from \$250 to \$1800. For counties of 100,000 to 200,000 the annual salary is \$2600, and for larger counties \$4000. These amounts are in addition to compensation for serving as clerk when the two offices are held by one person.

<sup>4</sup>The county manager serves as director of finance.

TABLE 33. NAME, MANNER OF SELECTION, TERM, AND COMPENSATION OF STATE SUPERVISORY AGENCIES HAVING NEITHER REVIEW NOR EQUALIZATION POWERS, JANUARY 1, 1941

	Agency or Official <sup>1</sup>	Manner of Selection	Term in Years	Compensation
Conn. ....	Tax com'r	Appt. by gov. with consent of senate	4	Set by gov., com'r of finance, and personnel director
Fla. ....	State comptroller	Elected	4	\$5000
Idaho. ....	State auditor	Elected	2	\$4000
	Finance com'r	Appt. by gov.	2	\$3000
Ky. ....	Com'r of revenue	Appt. by gov.	Indef.	\$5000
La. ....	Com'r of revenue	Appt. by gov. with consent of senate	4	Set by gov.
Me. ....	State tax assessor	Appt. by gov. and council	Indef.	Set by gov. and council
Nebr. ....	State tax com'r	Appt. by gov. with consent of senate	2	\$5000
N.D. ....	State tax com'r	Elected	4	\$2800

TABLE 33—*Concluded*

	Agency or Official <sup>1</sup>	Manner of Selection	Term in Years	Compensation
Ohio.....	Tax com'r	Appt. by gov. with consent of senate	4	\$6500
Okla.....	Okla. tax com'n	Appt. by gov. with consent of senate	4	\$5400
S.D.....	Dir. of tax'n.....	Appt. by sec'y of finance	4	\$3600
Tenn.....	Com'r of finance and tax'n	Appt. by gov.	2	Recommended by gov. and set by legislature
Tex.....	State comptroller	Elected	2	\$2500
Vt.....	Com'r of taxes	Appt. by gov. with consent of senate	2	\$4000
Va.....	State tax com'r	Appt. by gov. with consent of senate	4	Set by legislature
	Aud. of pub. accts.	Appt. by legislature	4	\$5000
W.Va.....	State tax com'r	Appt. by gov. with consent of senate	6	\$6000

<sup>1</sup>Where the duty is imposed upon a department instead of a commission or official, the administrative head of the department is listed in this column. All of the agencies listed are headed by single administrators except the 3-member Oklahoma Tax Commission.